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SUMMARY OF BUDGET RECONCILIATION PROVISIONS UNDER THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS

SEPTEMBER 19, 1989

Prepared for the use of the Committee on Ways and Means by its staff

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I. EXECUTIVE SUMMARY

TITLE X-OUTLAY AND REVENUE PROVISIONS RELATED TO SPENDING PROGRAM

SUBTITLE A—SOCIAL SECURITY PROVISIONS

Subtitle A includes provisions which increase the retirement test exempt amount for workers age 65–69, increase the special mininum benefit, and repeal certain retroactive benefits. In addition, it establishes the Social Security Administration as an independent agency, provides for improvements in SSA services and the representative payee system, provides for benefits to children adopted after a worker's entitlement, and exempts from Social Security coverage members of certain religious faiths. Furthermore, it provides work incentives for disabled adult children and allows for recovery of Social Security overpayments to former beneficiaries through IRS offsets.

Finally, it specifies that contributions to deferred compensation plans, including amounts deferred in 401(k) plans would be included in the determination of average total wages for social security purposes. This will increase the wage base by approximately 2 percent for 1990.

SUBTITLE B—MEDICARE PROVISIONS

Subtitle B contains numerous provisions designed to control costs and improve the hospital and physician payment systems. It also includes revisions to the Medicare Catastrophic Coverage Act of 1988.

Part A provisions include reducing capital payments to hospitals, setting the update factor and the disproportionate share adjustment for inner city and rural hospitals and establishing a rural hospital demonstration program. There are several miscellaneous provisions as well.

Part B provisions include the establishment of a new payment system for physicians, to take effect in fiscal year 1992. This reform package includes a resource based relative value scale (RB RVS), expenditure targets for overall payments to physicians, and limits on physician extra billing. In addition, the reimbursement rates for various services are altered, and the update factor for physician services is reduced.

Parts A and B provisions include payment delays, research projects, patient protection amendments, and HMO and physician referral provisions.

The Part B premium would be set at 25 percent of program costs through 1990.

Part F includes the revisions to the Medicare Catastrophic Coverage Act of 1988. The supplemental premium rates would be re-

duced by one-half beginning in calendar year 1989. Part B and prescription drug catastrophic coverage and the current voluntary Part B program would become voluntary as a package. Part A catastrophic coverage benefits would become part of the basic Part A program. The basic Part B premium would be set at 25 percent of the costs of the basic Part B program for calender years 1991 through 1993. The Part B premium would be increased on an *ad hoc* basis and would increase by $3.50 per month in 1990, $4.00 in 1991, $4.10 in 1992 and $4.10 in 1993. The deductible for prescription drugs would be increased from $600 to $800 in calendar year 1991 and from $652 to $950 in calendar year 1992. Payments of Medicare claims would be delayed by five days at the end of fiscal year 1990, six days at the end of fiscal year 1991, three days at the end of fiscal year 1992 and by one year at the end of fiscal year 1993. The delayed payments would be made on October 1 of each year.

Subtitle C—Human Resources

Subtitle C contains provisions relating to children's programs, programs directed at the poor elderly, and unemployment compensation. It includes amendments to the Title XX social services block grant, child welfare, foster care, Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC) quality control and unemployment compensation programs.

The major amendments in this subtitle would increase the entitlement ceiling for the Title XX social services block grant by $200 million in fiscal year 1991, $400 million in fiscal year 1992, and $600 million in fiscal year 1993 and thereafter; would permanently increase the authorization level of the Title IV-B child welfare services program from $266 million to $400 million; would revise the name, purpose and extend the current foster care independent living program for three years and increase the entitlement level to $100 million annually; would increase SSI participation by establishing a permanent SSI outreach program for disabled and blind children and adults; would require the Secretary of HHS, in determining SSI eligibility for the blind and disabled, to assess individually each child's functional limits that interfere with the activities of daily living, recognizing the age of the child; would allow social security disability insurance recipients who lose benefits because of earnings to become eligible for SSI and the work incentive provisions authorized by section 1619 of the Social Security Act; and would permanently modify the AFDC quality control system.

Subtitle D—Trade

Subtitle D contains trade agencies authorizations for the U.S. International Trade Commission (USITC), the U.S. Customs Service, and the Office of the U.S. Trade Representative. It also includes a number of customs user fees amendments, elimination of the Superfund petroleum excise tax differential, and several miscellaneous customs provisions.

Subtitle E—Caribbean Basin Economic Recovery

Subtitle E contains the Caribbean Basin Economic Recovery Expansion Act.

Subtitle F—Tariff Provisions

Subtitle F contains numerous miscellaneous tariff provisions.

TITLE XI—REVENUE PROVISIONS

Capital Gains

Title XI provides individuals a 30-percent exclusion on the net capital gain from sales or exchanges of assets (other than collectibles) held more than one year which are disposed of during the period beginning September 14, 1989, and ending December 31, 1991.

With respect to disposition of assets acquired after December 31, 1991, the provision allows an individual to index the basis of the asset for inflation occurring after 1991 for purposes of determining gain (but not loss). Indexed assets include corporate stocks (other than certain preferred stock and stock in foreign corporations) and tangible assets which are capital assets or business assets and which are held for more than one year.

Extension of Telephone Excise Tax

Title XI provides a permanent extension of the 3 percent telephone excise tax.

Employee Stock Ownership Plan Provisions

Title XI repeals the partial exclusion for interest received by certain lenders on loans to ESOPs and the deduction for dividends paid on employer securities held by an ESOP for ESOPs that hold less than 30 percent of an employer's stock.

In addition, Title XI repeals the following provisions relating to the tax treatment of ESOPs: (a) The 50 percent deduction from an estate for certain proceeds of employer securities sold by the estate to an ESOP, (b) The assumption of estate tax liability by an ESOP for employer securities acquired by the ESOP from a decedent, (c) The special limits on contributions to certain ESOPs, and (d) The provision under which stock acquired by an ESOP is not taken into account in determining whether an ownership change has occurred.

Suspend Airport and Airway Trust Tax Trigger for One Year

Title XI suspends the Airport and Airway Trust Fund tax reduction trigger for one year, and retains that a portion of the revenue raised by the suspension remain in the general fund where it will be available for FAA operations and maintenance expenditures.

Administration Loophole Closers

Title XI contains the following Administration proposals that were agreed to by the Committee:

(1) change of tax treatment of certain high-yield original issue discount obligations;

(2) consolidated computation of earnings and profits for corporations filing consolidated returns;

(3) limitation on nonrecognition for certain exchanges of property;

(4) limitation on exclusion from income of amounts received for physical injury;

(5) change in treatment of distributions by partnerships of contributed property; and

(6) limitation on nonrecognition treatment for securities received in certain nonrecognition transactions.

Tax on Ozone-Depleting Chemicals

Title XI imposes an excise tax on those ozone-depleting chemicals currently subject to the Montreal Protocol. The tax is generally imposed on the sale or use by the producer, manufacturer, or importer of ozone-depleting chemicals.

Corporate Mergers and Acquisitions

Title XI contains several provisions dealing with mergers, acquisitions, and other transactions which increase levels of corporate debt. Some of these provisions were proposed by the Administration as loophole closers. The Committee included limits on the ability of a corporation to obtain a refund of taxes paid in prior years by carrying back a net operating loss where the losses are created by interest deductions allocable to certain equity-reducing transactions. In addition, the Committee agreed to change the threshold for not taking into account built-in gains and built-in losses for certain ownership transfers, modified the excess loss account recapture rules, and agreed to limit a corporate taxpayer's deductions for interest paid to related parties in certain transactions. Further, the Committee clarified existing Treasury regulatory authority on issues characterizing an instrument as debt or equity, required reporting with respect to certain corporate acquisition and recapitalization transactions, and required a Treasury Department study of various issues with respect to the tax treatment of debt and equity. In addition, the Committee repealed the provision allowing a ten-year write-off for certain franchise, trademark and trade name payments.

Repeal Bank Foreign Tax Credit Special Rule

Title XI repeals prospectively the transition rule in the Tax Reform Act of 1986 that delays, and then phases in, application of the separate foreign tax credit limitation with respect to high withholding tax interest received on certain third world loans involving the so-called "Baker 33" countries.

Pension Plan Assets Used To Provide Retiree Health Benefits

Title XI permits a one-time transfer of assets in an overfunded defined benefit plan (in excess of 140 percent of the plan's current

liability) to the Code section 401(h) account for retiree health benefits that is part of such a plan.

Repeal Balance of Completed Contract Method of Accounting

Title XI repeals the percent-of-completion/capitalized-cost method of accounting.

Treatment of Agricultural Workers Under Wage Withholding

Title XI subjects to income-tax withholding cash wages paid to agricultural workers if the workers are subject to FICA withholding.

Payroll Tax Deposits

Title XI requires employers who have accumulated at least $1 million in undeposited amounts withheld from employee's wages and FICA taxes to expedite their deposits of these amounts to the Federal government, beginning after December 31, 1993.

Expiring Provisions

Title XI provides for a permanent extension of the following credits and rules:

(1) the low-income housing credit with certain modifications,

(2) the 20 percent research tax credit with modifications,

(3) a permanent rule under which taxpayers would allocate 64 percent of expenses for research and development conducted in the United States to U.S. source income.

Title XI also provides extensions through December 31, 1991 of the following credits:

(1) employer-provided education assistance,

(2) the targeted jobs tax credit with modifications,

(3) authority to issue qualified mortgage bonds,

(4) authority to issue qualified small-issue bonds,

(5) the non-refundable 10 percent energy credit for business geothermal property, and

(6) extension of the 25 percent deduction for the health insurance of self-employed individuals.

Repeal of Section 89

Title XI repeals the nondiscrimination rules contained in Section 89. It provides new nondiscrimination requirements for executive only health plans of professional service organizations.

Corporate Alternative Minimum Tax

Title XI contains a number of provisions simplifying and modifying the corporate alternative minimum tax, including removing all references to the taxpayer's book treatment in computing the present-law adjusted current earnings preference.

Tax Penalty Reform

Title XI revises the civil penalty provisions of the Code. Among other things, it modifies the information-reporting penalties so that the amount of the penalty would vary with the length of time in which the taxpayer corrects the failure. The various accuracy penalties (for negligence, substantial understatements, and misvaluation) would be consolidated and coordinated to eliminate stacking of penalties and to target the applicable penalty to the portion of the underpayment that is attributable to the proscribed conduct.

Child Care Initiative

Title XI increases the amount of the earned income tax credit (EITC) and adjusts the credit for family size. In addition, a new supplemental credit is created for families with any children under the age of six. The Social Services Block Grant is permanently increased by $200 million for fiscal year 1990, $350 million for fiscal year 1991 and $400 million of fiscal year 1992 and thereafter. A state receiving these earmarked funds would have to have in effect state child care standards addressing several special categories.

Table 1 below illustrates the budgetary impact of the Committee on Ways and Means reconciliation proposals by major category. A positive sign indicates the provision reduces the deficit, for example an increase in revenues or outlays savings. A negative sign indicates the opposite—a decrease in revenues or an increase in outlays. Overall, the Committee's recommendations reduce the deficit by $9.5 billion in fiscal year 1990 and $10.6 billion for fiscal year 1991.

TABLE 1.—TOTAL BUDGET IMPACT OF COMMITTEE ON WAYS AND MEANS RECONCILIATION RECOMMENDATIONS BY MAJOR CATEGORY

[By fiscal year, in billions of dollars]

	1990	1991	1992	1993	1994
Reconciliation Instruction					
Outlays	2.3	2.3	0	0	0
Revenues	5.3	5.3	0	0	0
Either outlays or revenues	0.4	0.4	0	0	0
Total	8.0	8.0	0	0	0
Reconciliation Provisions					
A. Social Security initiatives:					
Include deferred compensation in indexing of wage base	.4	1.1	1.1	1.1	1.1
Miscellaneous amendments	(1)	(1)	−.1	−.2	−.3
B. Trade initiatives:					
Custom service user fees	−.2	.8	(1)	(1)	(1)
Caribbean Basin Initiative (CBI)	(1)	(1)	(1)	(1)	(1)
Miscellaneous tariff measures	−.1	−.2	−.2	−.1	(1)
C. Human resource initiatives:					
Children's initiative	−.1	−.4	−.7	−.8	−.8
Elderly poor initiative	−.2	−.3	−.3	−.3	−.3
Miscellaneous amendments	(1)	0	0	0	0
Quality Control amendments	0	−.3	−.5	−.2	−.2
Total	−.3	−1.0	−1.5	−1.3	−1.3
D. Medicare initiatives:					
Part A	.8	.2	.1	.1	.1
Part B	1.1	1.4	1.5	1.7	1.9
Parts A and B	.8	.9	.8	.6	.3
Beneficiaries	.3	.5	.5	.5	.5
Total	3.0	2.9	2.9	2.9	2.9
E. Amendments to Medicare Catastrophic Program:					
Reduce supplemental premium	−2.5	−2.5	−2.4	−2.7	−3.0
Increase Part B premium (2)	1.0	2.0	2.8	3.8	4.2
Increase drug deductible	0	.3	1.0	.6	0
Make program voluntary	−.1	−.4	−.2	−.2	−.2
Delay payments	2.0	.7	−1.2	−.9	−.6
Total	.4	.2	(1)	.6	.5
F. Child care initiative:					
Earned Income Tax Credit	0	−.4	−4.1	−4.4	−4.7
Title XX	−.1	−.3	−.4	−.4	−.4
Total	−.1	−.7	−4.4	−4.8	−5.1
G. FSLIC Scoring Credit (H.R. 1278)	.6	(1)	.4	.3	.2
H. Revenue initiatives:					
Capital gains reduction	2.9	3.8	2.7	−5.7	−5.2
Permanent extension and speedup of telephone excise tax	.1	1.6	2.7	2.9	3.1
Employee Stock Ownership Plan proposals	1.4	1.8	2.3	2.7	3.2

TABLE 1.—TOTAL BUDGET IMPACT OF COMMITTEE ON WAYS AND MEANS RECONCILIATION RECOMMENDATIONS BY MAJOR CATEGORY—Continued

[By fiscal year, in billions of dollars]

	1990	1991	1992	1993	1994
Suspend Airport & Airway Trust Fund Trigger for one year(3)	.9	.2	(1)	(1)	(1)
Administration "loophole closers"	.4	.7	.8	1.0	1.0
Corporate mergers and acquisitions	.5	.8	.8	.8	.8
Tax on ozone-depleting chemicals	.4	.6	.8	1.2	1.4
Repeal bank foreign tax credit special rule	.2	.2	.2	.1	(1)
Permit limited use of excess pension funds for current retiree health benefits	.3	.5	.2	0	0
Repeal balance of completed contract method of accounting	.2	.4	.3	.1	(1)
Impose income tax withholding on wages of certain agricultural workers	.3	.1	(1)	(1)	(1)
Payroll tax speedup for large companies (effective 1994)	0	0	0	0	1.8
Other revenue proposals	.5	.4	.3	.3	.2
Expiring provisions	−1.6	−2.8	−3.0	−3.2	−3.7
Repeal Section 89	−.1	−.1	−.1	−.1	−.1
Corporate Alternative Minimum Tax	−.4	−.7	−.7	−.7	−.7
Tax Penalty reform	0	−.1	−.1	−.1	(1)
Total	5.8	7.5	7.2	−.6	1.9
Grand total—deficit reduction	9.5	10.6	5.3	−2.1	−.2

[1] Gain or loss of less than $50 million.

[2] Includes both the ad hoc Part B premium increases of $3.50 per month in calendar year 1990, $4.00 in 1991 and $4.10 in 1992 and 1993, and extension of the 25 percent rule through 1993.

[3] Also includes modification in collection period of airline ticket tax.

Notes.—Minus indicates a decrease in revenues or an increase in outlays.

Since for reconciliation scoring, only direct spending and revenue provisions count, authorizations are not shown. Deficit reduction is net revenues plus net outlay savings.

Totals may not add due to rounding.

Source: Congressional Budget Office and the Joint Committee on Taxation.

II. SUMMARY

TITLE X—OUTLAY AND REVENUE PROVISIONS RELATED TO SPENDING PROGRAMS

SUBTITLE A—PROVISIONS RELATED TO SOCIAL SECURITY AND RAILROAD RETIREMENT

1. Establishment of the Social Security Administration as an independent agency

The Social Security Administration (SSA) would be removed from the Department of Health and Human Services (HHS) and established as an independent agency with responsibility for the Old-Age, Survivors and Disability Insurance (OASDI) program and the Supplemental Security Income (SSI) program. The new agency would be under the authority of a three-member, bi-partisan Social Security Board appointed by the President. The Board would formulate policy for the agency and would appoint an Executive Director to serve as chief operating officer and to direct the day-to-day operations of the agency.

Administrative Law Judges (ALJs) in the independent agency would report directly to the Board. They would preside over hearings of appeals of agency decisions, as well as appeals of medicare cases, as is currently the practice in SSA's Office of Hearings and Appeals. By July 1, 1992, both the Secretary of HHS (in consultation with the Board) and the Comptroller General of the United States would issue reports to Congress on the appropriateness of maintaining this arrangement for medicare appeal hearings.

2. Improvements in Social Security Administration services and beneficiary protections

A number of improvements would be made in SSA procedures regarding collection of overpayments; contacts with SSA teleservice centers; correction of earnings records; standards applicable in determinations of fault, good faith and good cause; applications by homeless persons for benefits; notices sent to social security beneficiaries; legal representatives of claimants; and in the avenues of recourse open to claimants and potential applicants who lose benefits because SSA provides them with inaccurate or incomplete information.

3. Improvements in the representative payee system

The representative payee system would be improved by: (a) requiring the Secretary of HHS to conduct a more extensive investigation of the representative payee applicant; (b) providing stricter standards in determining the fitness of the representative payee applicant to manage benefit payments on behalf of the beneficiary; and (c) directing SSA to make recommendations regarding the ap-

plication of stricter accounting procedures to certain high-risk representative payees.

In addition, the provision would allow certain community-based non-profit social service agencies providing representative payee services of last resort to collect a fee from an individual's social security benefit for expenses incurred in providing such services. The Secretary would be required to set the maximum fee which could be collected.

4. Statement of trust fund liabilities in trustees' report

The Report of the Trustees of the Old-Age, Survivors and Disability Insurance trust funds would include a statement of the unfunded liabilities of the funds.

5. Payment of benefits to a child adopted after a parent's entitlement to retirement or disability benefits

A child adopted after a worker becomes entitled to retirement or disability benefits would be eligible for child's insurance benefits regardless of whether he or she was living with and dependent on the worker prior to the worker's entitlement.

6. Extension of Social Security coverage exemption for members of certain religious faiths

The existing religious exemption from social security coverage would be extended to: (a) employees of partnerships in which each partner holds a religious exemption from social security coverage, and (b) employees of churches and church-controlled non-profit organizations who are treated as self-employed for purposes of social security taxation.

7. Prohibition of termination of coverage of U.S. citizens and residents employed abroad by a foreign affiliate of an American employer

American employers would no longer be able to terminate the social security coverage of U.S. citizens and residents employed abroad in their foreign affiliates.

8. Creation of work incentives for disabled adult children

The proposal would establish a system of continuing, partial benefit payments to disabled adult children (DACs) who attempt to work. This system would replace, for DACs, the existing system under which beneficiaries whose earnings exceed a specified level (substantial gainful activity) lose all social security benefits. The existing trial work period and extended period of eligibility (EPE) would be repealed. (DACs who are disabled by reason of blindness would continue to be subject to current law.)

9. Continuation of disability benefits during appeal

The provision in current law permitting disability beneficiaries to elect to have their disability benefits continued during appeal would be made permanent.

10. Repeal of carryover reduction in retirement or disability insurance benefits due to receipt of widow(er)s benefits before age 62

The carryover reduction applied to retirement or disability benefits received by widow(er)s who collected widow(er)s benefits before age 62 would be eliminated.

11. Preeffectuation review of favorable decisions by the Social Security Administration

The percentage of favorable decisions made by State Disability Determination Services which must be reviewed by the Secretary of HHS would be reduced from 65 percent of all such decisions to 50 percent of allowances and 25 percent of continuances, and the reviews would be targeted to cases most likely to contain errors.

12. Recovery of overpayments from former Social Security beneficiaries

The Social Security Administration would be permitted to recover overpayments from former beneficiaries through arrangements with the IRS to offset the former beneficiary's tax refund. The provision would remain in effect as long as the existing, government-wide offset program remains in effect (currently, until January 10, 1994).

13. Use of Social Security number by certain legalized aliens

Certain aliens who were granted amnesty under the provisions of the Immigration Reform and Control Act of 1986 would be exempted from criminal penalties for fraudulent use of a social security card. The exemption would not apply to those individuals who sold social security cards, possessed cards with intent to sell, or who counterfeited or possessed counterfeited cards with intent to sell.

14. Increase in the retirement test for workers age 65–69

The retirement test exempt amount for beneficiaries age 65–69 who work would be raised by $360 in 1990 and by an additional $240 in 1991. These increases would be in addition to the automatic annual increase in the exempt amount, which reflects the annual increase in wages in the economy. The projected thresholds would be raised in 1990 from $9,360 (under current law) to $9,720, and in 1991 from $9,840 (under current law) to $10,440.

15. Increase in the special minimum benefit

The special minimum benefit, which is designed for long-term, low-wage workers, would be increased. The increase for an individual who has worked for 30 years at low wages, and who retires in 1990 at age 65, would be $35 per month. In addition, the amount of earnings needed to earn a year of coverage toward the special minimum benefit would be reduced starting in 1990 from 25 percent of the old-law contribution and benefit base ($9,375), to 15 percent of the base ($5,625).

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16. Repeal of retroactive benefits for certain categories of individuals

Retroactive benefits would no longer be available for two categories of individuals eligible for reduced benefits: (1) those with dependents entitled to unreduced benefits, and (2) those with pre-retirement earnings over the amount allowed under the retirement test who may use the retroactive benefits to charge off their excess earnings.

17. Inclusion of employer cost of group-term life insurance in compensation under the Railroad Retirement Tax Act

The value of employer-paid premiums for group-term life insurance coverage in excess of $50,000 would be made subject to the railroad retirement payroll tax, bringing the treatment of such premiums into conformity with their treatment under the Social Security Act.

18. Inclusion of deferred compensation arrangements, including 401(k) plans, in compensation under the Railroad Retirement Tax Act

Contributions to 401(k) deferred compensation plans would be subject to the railroad retirement payroll tax, bringing the treatment of 401(k) plans into conformity with their treatment under the Social Security Act.

19. Codification of the Rowan decision with respect to railroad retirement

Nothing in the Internal Revenue Service (IRS) regulations defining wages for purposes of the income tax could be construed as requiring a similar definition for purposes of the railroad retirement payroll tax.

20. One-year extension of general fund transfers to railroad retirement Tier II trust fund

The transfer of proceeds from the taxation of railroad retirement Tier II benefits from the General Fund of the Treasury to the railroad retirement trust fund would be extended for one additional year, to October 1, 1990.

21. Inclusion of deferred compensation in average total wages

Contributions to deferred compensation plans, including amounts deferred in 401(k) plans, would be included in the determination of average total wages for social security purposes. The year-to-year increase in average total wages is used to determine the annual increase in the contribution and benefit base, the benefit formula, the retirement test exempt amounts, and other social security program amounts. Under a transition provision, the contribution and benefit base would be affected beginning in 1990, while benefits and all other program amounts would not be affected until 1993.

22. Treatment of refunds by employers under the Medicare Catastrophic Coverage Act of 1988 for FICA and other purposes

Refunds to individuals by employers under the maintenance-of-effort provision of the Medicare Catastrophic Coverage Act of 1988 would be excluded from wages for FICA, FUTA, and railroad retirement and railroad unemployment insurance tax purposes. The refunds would also be excluded for purposes of determining average total wages, the year-to-year increase in which is used in determining the annual increase in the contribution and benefit base and other social security, railroad retirement, federal-state unemployment insurance, and railroad unemployment insurance program amounts.

SUBTITLE B—MEDICARE PROVISIONS

PART A

1. Hospital capital payments

Capital payments to Prospective Payment System (PPS) hospitals would be reduced 15 percent from cost in fiscal year 1990. The General Accounting Office (GAO) would be directed to study the effects of low occupancy on hospital costs.

2. Hospital update factor and diagnosis related group (DRG) weights

The hospital update factors for fiscal year 1990 would be set as follows: for hospitals in large urban areas—market basket minus 1.25 percentage points; for hospitals in other urban areas—market basket minus 1.75 percentage points; and for hospitals in rural areas—market basket plus two percentage points.

In recalibrating the DRG weights on an annual basis, the Secretary of the Department of Health and Human Services (HHS) would be required to do so on a budget neutral basis for fiscal year 1990 and subsequent years.

3. Inner city and rural hospitals

(a) *Disproportionate Share Adjustments.*—The disproportionate share adjustment would be increased for all disproportionate share hospitals. The adjustment would increase .6 for every one-percent increase in disproportionate share, instead of .5 as in current law.

For hospitals in which the current disproportionate share adjustment exceeded 5.1, the adjustment would be increased by a further amount. For the portion of a hospital's number of low-income patients necessary to reach the 5.1 threshold, the adjustment would be calculated using the .6 multiplier. For the portion of a hospital's low-income patients above the threshold, the adjustment would increase .7 for every one-percent increase in disproportionate share.

Hospitals which qualify for an adjustment based upon revenue from indigent care received from State and local governments would receive an increase in the disproportionate share adjustment of two percent to 27 percent, instead of 25 percent as in current law.

(b) *Increased Update for Rural Hospitals.*—The hospital update for fiscal year 1990 for rural hospitals would, as indicated above, be

set at the market basket rate plus two percentage points. This would be 3.75 percentage points higher than the basic update provided hospitals in other urban areas.

(c) *Rural Referral Centers.*—Rural referral centers grandfathered under current law would be grandfathered for three additional years. Rural referral centers would receive a disproportionate share adjustment based upon the same formula as that used for urban hospitals although the threshold for disproportionate share rural hospitals would be retained.

(d) *Sole Community Providers.*—Sole community provider hospitals would be defined as all hospitals more than 35 miles from another hospital. Payment to these hospitals would be, at the hospitals' option, either: (1) 100-percent hospital-specific prospective rates based on 1982 costs; (2) 100-percent hospital-specific prospective rates based on 1987 costs; or (3) PPS payments. Grandfathered sole community providers not meeting the new criterion would be paid under current sole community provider payment rules.

(e) *Geographic Classification of Hospitals.*—The Secretary would establish a process for hospitals to apply for changes in their geographic status. The Secretary would have 12 months to act on applications by hospitals under this system. The Secretary could reclassify rural counties as urban, reclassify urban counties into a large urban area, and classify urban counties into a different wage area. Any decision by the Secretary to approve a request for a change in wage areas could not result in a reduction in the wage index of hospitals in an adjoining area.

(f) *Study of the Differential in the PPS Standardized Amount.*—The Secretary would analyze and evaluate the current differential in the PPS standardized amounts. The Secretary would make recommendations concerning the adjustments in such amounts necessary to reflect the differences in costs among hospitals in different types of areas.

(g) *Essential Access Community Hospital (EACH) Demonstration Program.*—An EACH demonstration program would be established in up to ten States.

States would apply on a voluntary basis to establish programs to support the development of EACH networks. States' responsibilities under the demonstration program would include the designation of EACH hospitals and the support of the development of rural health networks. These networks would include EACH hospitals and Rural Primary Care Hospitals (RPCH). States would be required to consult with State hospital associations and rural hospitals in the States. Participation by hospitals in the development of such networks would be voluntary.

EACH hospitals could be no less than 35 miles from another EACH hospital, a rural referral center, or an urban hospital which meets the criteria for a referral center. The Secretary could waive this criterion if the State proposed different criteria in its application. In addition, EACH hospitals could have no less than 75 beds, unless no other hospital was within 35 miles, or the Secretary granted a waiver to assure access, and the hospital met such other criteria established by a State with the approval of the Secretary.

An EACH hospital would be required to: (1) provide emergency and back-up services for its network and throughout the service

area; (2) accept transfers from RPCH hospitals in the network; (3) provide staff privileges to physicians in the service area providing care at RPCH hospitals; and (4) meet other responsibilities provided by the State or the Secretary.

EACH hospitals would have the same three options for payment as sole community providers.

RPCH hospitals would be institutions that: (1) provide 24-hour emergency care necessary to stabilize emergency patients; (2) have arrangements with the nearest EACH hospital, rural referral center or urban hospital for the transfer of patients and the provision of other back-up services; and (3) may continue to maintain up to six holding beds for patients where patients could be cared for up to 72 hours prior to transfer to another hospital. RPCH hospitals would cease providing acute inpatient care, unless this requirement was waived by the Secretary, and would be reimbursed on a cost basis.

Authorizations of appropriations from the Part A Trust Fund include $10 million for planning grants to hospitals for purposes of the current Rural Transition Grant program, $15 million for implementation grants to hospitals for conversion to primary care hospitals, and $15 million for grants to States for their activities under the program.

(h) *Rural Health Medical Education Demonstration.*—The demonstration created by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), providing for support of the costs of allowing resident physicians to develop field clinical experience in rural areas, would be expanded by adding an additional six sponsoring teaching hospitals to the four sites currently authorized.

(i) *Reporting Requirements.*—Hospitals receiving disproportionate share adjustments, sole community providers, rural referral centers, and EACH hospitals would be required to report their costs and statistics on a uniform basis as developed by the Secretary under the uniform hospital reporting demonstration authorized by OBRA '87.

4. Hospice

Hospice payment rates would be increased by 20 percent, effective October 1, 1989. In subsequent years, the payment rates would be indexed to the hospital market basket.

5. Miscellaneous part A provisions

(a) *Cancer Center Hospitals.*—Cancer center hospitals would be exempted from PPS, with a base year of 1987 for payments to these hospitals. For purposes of payment for capital-related costs, the exemption would be retroactive to fiscal year 1987.

(b) *Medicare Buy-In for Social Security Disability Insurance (SSDI) Beneficiaries.*—SSDI beneficiaries would be allowed to purchase Medicare coverage after they have worked a full 48 months, and are no longer eligible for Medicare coverage.

(c) *Applications for Adjustment to Limits for PPS-exempt Hospitals.*—The Secretary would be directed to specify within six months of enactment an application process for hospitals seeking adjustments in their limit set by the Tax Equity Fiscal Responsibility Act of 1982 (TEFRA).

(d) *Study of Hospital Care of the Medically Indigent and Posting of Medicaid Participation.*—GAO would be required to survey hospitals regarding each hospital's policy towards treatment of Medicaid-eligible individuals and the percentage of each hospital's net revenue from Medicaid. Medicare-participating hospitals would be required to post information regarding the hospital's participation in the Medicaid program.

(e) *Periodic Interim Payment (PIP) for Merged Hospitals.*—In the case of hospitals currently eligible for PIP that merge with another hospital, the merged hospital would continue to receive PIP payments if the new entity met the disproportionate share adjustment threshold for PIP payments after the merger.

(f) *Information on Accreditation.*—Each hospital which is deemed to meet the conditions of participation in Medicare, due to accreditation by the Joint Committee on the Accreditation of Health Organizations (JCAHO), would be required to agree to the release by JCAHO of accreditation surveys and other related information to the Secretary. As authorized by the hospitals, JCAHO would be explicitly required to release surveys and related information to the Secretary. The Secretary would be authorized to withdraw deemed status from a hospital based on any information he has received as to significant deficiencies, rather than only on information discovered in a validation survey, as under current law.

(g) *Extension of Waiver for Finger Lakes Area Hospital's Corporation (FLAHC).*—The test for continuation of the FLAHC waiver would be modified such that aggregate payments made by Medicare under the FLAHC system since October 1, 1983, would be compared to payments made since that date under the national system.

(h) *Hospital Bad-Debt Collection Policies.*—The existing prohibition on changes in bad-debt collection policy for hospitals would be further clarified. If a fiscal intermediary had accepted a hospital's bad-debt collection policy prior to August 1, 1987, the Secretary would be prohibited from directing the hospital to change its policy, or collecting retroactively from the hospital based upon the expectation of a change in the hospital's collection policy.

(i) *Dentists as Hospital Medical Directors.*—The current requirement of Medicare conditions of participation for hospitals, that provides that only a physician may be a medical staff director, would be revised to permit a dentist to be a medical staff director if permitted by State law.

(j) *Medical Necessity Certification in Skilled Nursing Facilities (SNF's).*—Nurse practitioners and clinical nurse specialists would be authorized to carry out certification and recertification activities in SNF's.

(k) *Hospital-Based and Free-Standing SNF's.*—The GAO would conduct a study to assess differences in costs and case-mix between free-standing and hospital-based SNF's. The GAO would make recommendations concerning the payment differential between free-standing and hospital-based SNF's.

(l) *Skilled Nursing Facility Cost Limits.*—The Secretary would be mandated to make adjustments to cost limits for skilled nursing facilities using cost reports for cost reporting periods beginning on or after October 1, 1985, effective for cost reporting periods beginning on or after October 1, 1989.

(m) *Intermediate Sanctions for Psychiatric Hospitals.*—The Secretary would be authorized to impose intermediate sanctions on psychiatric hospitals if the quality deficiencies at the hospital did not pose an immediate threat to the health and safety of patients.

PART B

6. Reduction in payments for certain physician services

(a) *Overpriced Procedures.*—Payments for overpriced procedures, and procedures that are closely related to overpriced procedures, would be reduced by an amount equal to half the difference between the 1989 local prevailing charge, and the amount that would be paid in the locality using the resource based relative value scale (RB RVS) recommended by the Physician Payment Review Commission (PhysPRC). Reductions would not exceed 15 percent.

Overpriced procedures are procedures with national average allowed charges at least 15 percent higher than would be paid under the PhysPRC recommended RB RVS. The base RB RVS fee would be calculated using an adjustment on the overhead portion of the fee by a Geographic Practice Cost Index (GPCI). In localities where the RB RVS fee for an overpriced procedure is less than the local prevailing charge, the prevailing charge would not be reduced. The list of overpriced procedures would not include pathology services.

The actual charges for procedures whose prevailing charges would be reduced under this provision would be subject to the specific limits on actual charges for overpriced procedures provided by current law. The special limits on actual charges would not apply for a procedure in localities where no reduction is made in the prevailing charge.

The reductions in overpriced procedures would be effective April 1, 1990.

(b) *Radiology Services.*—Payments for radiology services, except portable x-ray services, would be reduced by eight percent, effective April 1, 1990. This reduction would be implemented by: (1) reducing the 1989 national average conversion factor by eight percent; (2) adjusting the overhead portion of the reduced amount by the GPCI; and (3) reducing local conversion factors to the adjusted amount, but not by more than 15 percent. Local conversion factors below the adjusted amount would not be reduced. Prevailing charges for radiology services not paid under the fee schedule would be limited by the reduced prevailing charge for the service.

(c) *Anesthesiology Services.*—Anesthesiologists and certified registered nurse anesthetists (CRNAs) would be paid for the actual time of services provided rather than for 15 and 30 minute time units, as under current practice. This policy would be effective April 1, 1990.

7. Reduction in percentage increase in the MEI

The update of both customary and prevailing charges would be delayed from January 1, 1990, to April 1, 1990. The Medicare Economic Index (MEI) update would be two percent, except for primary care services that would receive the full baseline MEI update of 5.3 percent. Procedures identified as overpriced including radiology and anesthesiology services would not receive any update.

8. Physician payment reform

(a) *Resource Based Relative Value Scale (RB RVS).*—Payments for physician services using the RB RVS would begin to be phased-in beginning on October 1, 1991. The RB RVS would be established by the Secretary based on the Harvard RB RVS study, with consideration of the recommendations of PhysPRC. The component of fees representing overhead would be adjusted by a GPCI.

The component of fees representing malpractice costs would be adjusted for variations in malpractice costs, once the necessary information is available. The Subcommittee intends to hold hearings on alternative approaches for resolving malpractice claims.

The new fees would be phased-in so that prevailing charges for services would be increased or reduced each year by amounts not to exceed 15 percent, until the RB RVS fee levels are reached. The phase-in would be completed on December 31, 1995, after which all payments would be based on the RB RVS fee schedule. Payments for surgical services would be made based on uniformly defined global fees. The Secretary would set the conversion factor each year during the phase-in at a level to insure budget neutrality.

(b) *Expenditure Targets.*—Targets would be set for expenditures for physician services beginning with fiscal year 1990. A separate target would be set for surgical services, and such other categories of services as the Secretary deems appropriate. Each year, the Secretary and PhysPRC would recommend expenditure targets for the following fiscal year. In recommending the targets, the Secretary would be required to consider inflation, growth in the covered population, changes in volume and technology, and other factors. The actual amount of the targets would be considered by the Committee on Ways and Means and the Committee on Energy and Commerce (the Committees) and enacted by statute.

In the February following the end of each fiscal year target period, the Secretary would recommend to the Committees updates for physician fees for the subsequent calendar year. PhysPRC would also make recommendations in May for the update for the subsequent year.

The Secretary and PhysPRC would have wide discretion to recommend differential updates for procedures or groups of procedures based on detailed analysis of the increase in costs of various physician services. The Secretary would consider performance relative to any separate target in determining his recommendation.

The recommended update would be equal to the MEI, increased or decreased by the percentage by which expenditures in the target period were above or below the target amount. If a specific update is not enacted by the Congress prior to the beginning of a calendar year, the update would be set by the Secretary by regulation.

The Secretary would study and report to the Committees on how the expenditure target system could set separate targets for States or other geographic areas, or for specific physician specialty services.

The expenditure target for fiscal year 1990 would be 10.0 percent. This is .5 percent below the estimated baseline increase in payments for physician services for fiscal year 1990.

(c) *Limits on Extra Billing.*—New limits on actual charges would begin to be phased-in on January 1, 1991. In 1991, physicians with 1990 maximum allowable actual charge (MAAC) limits above 115 percent of the prevailing charge or local RB RVS fee would be subject to an actual charge limit of 125 percent in 1991, 120 percent in 1992, and 115 percent in 1993. The Secretary would monitor the effects of this provision on assignment and participation rates.

The actual charges of physicians with 1990 MAAC limits at 115 percent of prevailing charges would be subject to limits on actual charges of 115 percent of prevailing charges until September 30, 1991, and 115 percent of the local fee under the RB RVS as of October 1, 1991. The Secretary would monitor changes in extra billing, and PhysPRC would report to the Committees in this regard.

9. Other physician provisions

(a) *New Physician Customary Charges.*—The customary charges of new physicians would be no greater than 80 percent in the first year of practice, increasing by five percent each year until the limit becomes 100 percent of the prevailing charge in the fifth year of practice. This provision would expire when the new RB RVS fee schedule goes into effect on October 1, 1991.

(b) *Designated Specialties.*—The Secretary would designate a primary specialty for frequently performed Medicare procedures. In carrier localities with specialty-specific prevailing charges, no specialty would have a prevailing charge for a service that is higher than the prevailing charge of the designated primary specialty.

10. Outpatient hospital capital payments

Capital payments for hospital outpatient services would be reduced 15 percent from cost in hospital fiscal years beginning during fiscal year 1990.

11. Durable medical equipment (DME)

(a) *DME Rentals.*—Payments for the rental of DME would be based on a fee schedule equal to ten percent of the average allowed purchase price in a base period for the first three months of rental, and seven and one-half percent of the average allowed purchase price for the fourth through fifteenth months of rental. Payment for items currently paid under the "frequently serviced items" category would be subject to the fifteen-month limit for rental payments. This provision would be effective April 1, 1990.

The Secretary would be required to establish the reasonable useful lifetime of rental items. A new cycle of rental payments would be allowed for replacement equipment.

(b) *Payment for Oxygen Supplies and Equipment.*—Payment for oxygen supplies and equipment would be reduced by five percent from the 1989 levels.

(c) *Enteral Equipment.*—Payment for enteral equipment would be made under the DME fee schedules.

(d) *DME Update.*—The update for DME would be delayed until April 1, 1990, and would be reduced to two percent.

(e) *Limit on DME Fee Schedules.*—Local DME fee schedules would be limited to 95 percent of the median of local fee schedules.

(f) *Overpriced DME.*—The section in current law prohibiting the Secretary from using his "inherent reasonableness" authority with respect to DME would be deleted. The Secretary would publish a list of over-priced DME. The fees for these services would be reduced by 15 percent three months following publication of this list. The fees for seatlift chairs, motorized scooters, and transcutaneous electrical nerve stimulation devices would be reduced by 15 percent, effective April 1, 1990. A reduction of 15 percent in payments for motorized wheelchairs would be at the discretion of the Secretary, based on his review of payments for these services.

(g) *Limits on DME Suppliers.*—DME suppliers would be prohibited from distributing Medicare medical necessity forms to patients. Suppliers violating these provisions would be subject to civil money penalties. Suppliers would be required to disclose whether any person with ownership interest is a physician. Claims of suppliers with physician owners would be subject to more stringent review by carriers. Assignment would be required for all DME services and supplies.

(h) *DME Study.*—The GAO would review and make recommendations concerning appropriate standards determining the medical necessity of various items of durable medical equipment.

12. Clinical laboratory services

(a) *Update.*—The update for clinical laboratory services would be reduced to two percent.

(b) *Limit on Clinical Laboratory Fee Schedules.*—Local clinical laboratory fee schedules would be limited to 95 percent of the median of local fee schedules.

13. Mental health services

(a) *Psychologists.*—Clinical psychologists would be paid directly. These services would be subject to the current 50 percent coinsurance requirement for mental health services. Assignment would be required for these services. The Secretary would provide by regulation for psychologists to consult with a patient's attending physician within a reasonable period of time.

(b) *Mental Health Limit.*—The current $1,100 limit on mental health services would be eliminated.

14. Miscellaneous part B

(a) *Certified Registered Nurse Anesthetists (CRNA's).*—The conversion factor for direct reimbursement of the services of CRNA's would be $14 per unit for medically directed CRNA's, and $21 per unit for non-medically directed CRNA's.

Claims would reflect actual time, as for physician anesthesiologists. The CRNA conversion factor could not exceed the conversion factor of anesthesiologists in the same locality, except where there is no physician anesthesiologist providing anesthesiology services in the facility. Current Medicare policy prohibiting payments to surgeons for medical direction of CRNA's would be codified. These provisions would be effective April 1, 1990.

(b) *Payments to Community Health Centers (CHC's).*—This provision would establish a statutory basis for payments to CHC's. Centers that meet all the requirements of Sections 329, 330, or 340 of

the Public Health Service Act would be eligible to receive payments, whether or not they receive funds under these sections.

Payments would be made at 80 percent of an all-inclusive rate. Existing anti-kickback provisions would be waived to allow CHC's to reduce or waive coinsurance amounts under sliding fee schedules for the indigent and near-indigent. Payments to CHC's would be made without regard to the Part B deductible.

(c) *Small Blood Labs.*—Payments would be made to small blood labs for special trips to collect specimens from nursing home or homebound patients when ordered by physicians on an emergency basis. To qualify, a lab must receive at least 85 percent of its Medicare revenues from tests provided to nursing home or homebound patients.

(d) *Municipal Health Service Demonstration Waivers.*—The current Medicare waivers for the four municipal health service demonstration projects, established by the Robert Wood Johnson Foundation, would be extended for four years. HHS would conduct a study of the effectiveness of these projects in improving the quality and efficiency of health services.

(e) *Diabetic Shoe Inserts.*—Payments would be made for up to three inserts per year under the therapeutic shoes demonstration project.

(f) *Studies.*—A number of studies are mandated: (1) a study by HHS of payments for ambulance services; (2) a PhysPRC study of payments for assistants at surgery, including the services of nonphysician first assistants; (3) a GAO study of the cost of magnetic resonance imaging services; (4) a ProPAC study of costs and payments for services in hospital outpatient departments; and (5) a GAO study of coverage and payments for services of nurse practitioners.

PARTS A AND B

15. Payment delay

Payments to providers under Parts A and B would be delayed for 16 days prior to payment in fiscal year 1990, as compared to 14 days under current law. Ninety-five percent of "clean" claims would be required to be paid within 21 days for participating physicians and 26 days for all other providers.

16. Medicare secondary payer

(a) *Identification of Medicare Secondary Payer Situations.*—The Internal Revenue Service (IRS) and the Social Security Administration (SSA) would provide information to HHS to improve identification of Medicare secondary payer cases. HHS would use this information to link spouses with beneficiaries to identify individuals with health insurance coverage provided by employers. Medicare carriers would be required to maintain appropriate standards of confidentiality for all data provided by the IRS and the SSA.

Employers would be required to respond to inquiries regarding employer-provided health coverage within 30 days of receiving a letter. This provision would, following current law, apply only to employers with 20 or more employees.

Medicare would pay as secondary payer on all claims for beneficiaries currently covered by an employer health plan. Payments would be recovered for claims erroneously paid for beneficiaries, if the claim was submitted at a time when the beneficiary was covered by an employer health plan.

This provision would expire on September 30, 1991.

(b) *Prohibition of Liens Against Liability Insurance.*—Liens against liability insurance would be prohibited. Providers, participating physicians and participating suppliers would be prohibited from filing liens against liability settlements and awards. They would also be prohibited from collecting more than deductibles and coinsurance from beneficiaries who receive liability payments.

(c) *Penalties for Non-Complying Employers.*—Existing penalties for non-complying employers of the working-disabled would be extended to employers of the working-aged and End Stage Renal Disease (ESRD) beneficiaries. Non-complying employers would face an excise tax equal to 25 percent of the group health plans' expenses. The Secretary would have a right of action with provision for double damages to enforce all secondary payer provisions.

(d) *Worker's Compensation and Liability Payments.*—Payments under worker's compensation or liability and related insurance would be credited toward Medicare deductibles. The special enrollment period for the disabled would be comparable to the special enrollment period for the aged.

(e) *Medicare Carriers.*—The Secretary would be prohibited from requiring Medicare contractors that are Medicare carriers to cross-match data files to identify secondary payer cases, as a condition of remaining a contractor.

(f) *Coverage for Members of Religious Orders.*—Religious orders whose members take a "vow of poverty" and who opt to contribute to Social Security would not be treated as employers for purposes of Medicare secondary payer provisions.

17. End stage renal disease (ESRD)

(a) *Method I Payment Rate.*—The current Medicare composite-payment rate for renal facilities would be maintained for fiscal year 1990. The OTA would conduct a study to determine the cost of providing dialysis treatments to Medicare beneficiaries and would recommend how the composite rate should be established in fiscal year 1991, and updated thereafter.

(b) *Method II Payment Rate.*—The Method II payment rate, based upon itemized bills and reasonable charges, would be capped at the Method I payment level.

Medicare beneficiaries who receive treatments that are reimbursed under Method II would be required to obtain a formal written agreement with one supplier. These beneficiaries would also be required to sign a written agreement with a local Medicare-approved ESRD facility, stating that the facility would provide all necessary home dialysis support services and back-up in-facility dialysis services when necessary.

(c) *ESRD Patient Rights.*—Renal dialysis facilities and providers of services would be required to inform ESRD patients of their rights related to their treatment, including such rights as: (1) to have information about treatments and alternatives; (2) to have

access to their own medical records; (3) to file grievances without the fear of reprisal; and (4) to be informed of the specific circumstances under which they may be discharged or transferred.

An advisory board would establish outcome-based quality standards and survey protocols to be used by States to annually survey renal facilities and providers of services beginning in 1992. Sanctions could be imposed upon facilities and providers of services found to be out of compliance with quality standards.

(d) *Erythropoietin.*—The Secretary would summarize information provided by the manufacturer and would report to the Committees concerning the methodology and rationale for establishing the payment rate for erythropoietin used to treat ESRD patients. The report would include a plan for monitoring the appropriateness of rates in the future. The report would be due on April 1, 1990.

The GAO would review the Secretary's findings and report to the Committees by June 1, 1990. The OTA would report on alternative acquisition and reimbursement strategies to reduce expenditures for certain drugs, without sacrifice to quality of care.

18. Medical outcomes and effectiveness research

(a) *Research Program on Outcomes and Effectiveness of Care.*—A medical outcomes and effectiveness research program would include: (1) reviews of literature; (2) development of new methodologies; (3) grants and contracts with research centers and other entities to conduct outcomes, effectiveness and appropriateness research; and (4) projects that demonstrate the use of claims data in such research.

New information and medical innovation would be incorporated into the research program in a timely fashion. The Committee intends that the Secretary insure that research and guidelines developed by physicians are not used to limit services rendered by non-physician professionals, unless the non-physician professionals are involved in the research and development of guidelines.

(b) *Data Base Development.*—Uniform definitions of data, standards of security, and common reporting formats for administrative and clinical data bases would be developed. The Secretary would report to the Committees regarding the feasibility of linking data between HHS and other Federal agencies.

(c) *Educational Programs and Dissemination of Findings.*—An educational program would: (1) disseminate research findings; (2) fund research on effective methods of educating providers and consumers on the findings from the outcomes and effectiveness research program; (3) to provide for the development of practice guidelines; and (4) provide for a demonstration project that uses the guidelines related to three conditions in the review of Medicare services.

(d) *Annual Report.*—The Secretary would provide an annual report on the medical outcomes and effectiveness research programs and on their effects on medical care.

(e) *Advisory Council.*—An advisory council would assist and advise the Secretary on the program. The council membership would include a broad range of professionals, provider groups, consumers, and other interested parties.

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(f) *Coordinating Group.*—The Administrator of HCFA, the Assistant Secretary for Planning and Evaluation, and the Assistant Secretary for Health would coordinate the research agenda and priorities. The group would recommend the medical procedures to be examined, two-thirds of which must have the concurrence of the HCFA Administrator.

(g) *Budget.*—Authorization for this program would be $72 million in fiscal year 1990, $110 million in fiscal year 1991, $175 million in fiscal year 1992, $225 million in fiscal year 1993, and $270 million in fiscal year 1994. Two-thirds of the amounts authorized would come from the Medicare trust funds, 60 percent from the Hospital Insurance Trust Fund and 40 percent from the Supplemental Medical Insurance Trust Fund. The remainder would come from general revenues. In fiscal year 1990, one-third of the funds would be allocated for the research program, one-third for data base development, one-sixth for guideline development and one-sixth for education and research dissemination.

19. Medicare hospital patient protection amendments

Clarifying amendments would be made to existing patient antidumping provisions, including: (1) a requirement that hospitals post signs informing patients of the hospital's obligations under the statute; (2) a requirement that hospitals create, maintain, and send with transferred patients certain records; (3) a risk/benefit approach to assessing transfers would be mandated; (4) a strict standard of liability for hospitals and physicians relating to civil monetary penalties would be established; (5) the obligations of physicians would be extended to on-call, attending physicians, with hospitals being required to maintain a list of such physicians; (6) physician liability would be clarified; and (7) "whistle-blower" protection would be provided for physicians who refuse to transfer an unstable patient.

20. Health maintenance organizations (HMO's)

(a) *Physician Incentive Arrangements.*—The Secretary would be required to specify the degree of risk at which individual physicians providing services within HMO's could be placed.

The Secretary would identify potentially high-risk physician compensation arrangements. HMO's could certify to the Secretary that they do not use such arrangements. HMO's which use such arrangements would be required to provide information to permit a determination regarding the risk of reduced services to beneficiaries. Direct and specific individual payment to a physician, as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, would be prohibited.

(b) *Exclusion of Prisoners and Welfare Beneficiaries from Calculation of the 50/50 Rule.*—Local or State prisoners and persons on behalf of whom a local or state government purchases health benefits as part of a general welfare assistance program could not be counted as non-Medicare or Medicaid enrollees for purposes of meeting the requirement that organizations enroll at least 50 percent of the members from commercial sources.

(c) *Publication of Methodology and Assumptions for the Adjusted Average Per Capital Costs (AAPCC).*—The Secretary would be re-

quired to publish the methodology and assumptions used to devise the AAPCC used to reimburse HMO's.

(d) *Benefit Stabilization Fund.*—Authority for the benefit stabilization fund for HMO's would be made permanent.

21. Physician ownership/referral

(a) *General Provision Regarding Physician Ownership/Referral.*—A physician would be prohibited from referring a patient for a Medicare-covered service to a provider if the physician or immediate family member has: (1) an ownership or investment interest in the provider, or (2) other compensation arrangements with the provider. Providers would be prohibited from submitting any bills or claims for reimbursement for services provided pursuant to a prohibited referral.

(b) *Exemptions.*—Various exemptions would be provided from the general rule, including: (1) services provided directly by a physician or by his or her employees, including certain temporary employees actually employed by others but under the physician's direct supervision; (2) services provided within a group practice; (3) services of radiologists, radiation therapy specialists, and pathologists; (4) services within pre-paid plans; (5) ownership of investment securities in large publicly-held corporations; (6) certain non-public pharmacies providing treatment for cancer; (7) services provided by any rural provider; and (8) services provided by free-standing and hospital-based renal dialysis facilities.

Services provided by a hospital in which a physician has an ownership interest would be exempt if the physician has admitting privileges at the hospital and the ownership interest is in the hospital as a whole. Hospitals would be required to meet the same reporting requirements as entities exempted due to being in operation prior to March 1, 1989, discussed below. Joint ventures between hospitals and physicians would also be exempt if the hospital was a majority owner and the hospital met the same criteria as entities applying for a case-by-case exemption would be required to meet, discussed below.

Entities with physician-owners, which did not qualify for one of the general exceptions, could apply to the Secretary for an exception if the services provided by the entity were not available in the service area, the entity provided services at a lower cost than other entities in the service area, or services were more convenient to patients in the service area.

(c) *Provisions for Exempt Entities.*—To qualify for an exception, entities would have to meet certain other requirements, including: (1) investment in the venture would be open to investors other than physicians; (2) participation in the venture could not encourage referrals; (3) the investment must be of a bona fide nature; (4) investors would be required to make an equity contribution to the venture; (5) return on investment must be reasonable, and if the risk of loss to an investor is limited, the return must be proportionately limited; (6) ownership interests would be required to be disclosed to, and acknowledged by, patients in a form and manner satisfactory to the Secretary; and (7) hospital cost-reporting requirements would apply to joint ventures involving hospitals, with such reports based on uniform hospital reports.

(d) *Entities in Operation on March 1, 1989.*—Services provided by entities substantially in operation prior to March 1, 1989, would be exempt, but would be subject to new reporting and registration requirements.

(e) *Requirements for Provider Numbers on Claims.*—All Part B claims would be required to include the name and provider number of the referring physician.

(f) *Treatment of Home IV Providers.*—Referrals by physicians to home IV therapy providers would be regulated under provisions adopted in the Medicare Catastrophic Coverage Act of 1988 and would not be subject to the new requirements of this legislation.

(g) *Denial of Payments.*—Medicare payment would be denied for any item or service provided pursuant to a prohibited referral. A person who received any payment from a Medicare beneficiary, including any coinsurance or deductible payments or any payment for an unassigned claim for a service provided pursuant to a prohibited referral, would be required to make a prompt refund to the beneficiary.

Any physician who makes a referral that the physician knows or should know is prohibited would be subject to civil money penalties and exclusion from the Medicare program, if a claim or bill is submitted pursuant to such a referral. A provider submitting the bill or claim would be subject to the same penalties if the provider knew or should have known that the bill or claim was for a service provided pursuant to a prohibited referral.

A civil money penalty would be up to $15,000 for each item or service provided pursuant to a prohibited referral, plus an amount equal to twice the amount billed for the item or service. Circumvention schemes would be prohibited, and subject to civil money penalties of up to $100,000 and exclusion from the Medicare program.

22. Miscellaneous parts A and B

(a) *Extension of Authority to Terminate Intermediary and Carrier Contracts.*—The Secretary's authority to terminate up to two fiscal intermediary and two carrier contracts per year for cause, and to replace those contractors with contracts in which reimbursement is on other than a cost basis, would be extended for an additional four years. In addition, the Secretary would be authorized to enter into additional contracts on other than a cost basis, if the contractor and the Secretary reached mutual agreement to do so. The Secretary could not condition contract renewal on a contractor so agreeing.

(b) *Long-Term Care Study.*—HHS would contract with IOM to conduct a study to examine practices of existing public and private long-term care programs. The study would identify areas of knowledge that could be used to develop and provide long-term care benefits for Medicare beneficiaries.

(c) *Long-Term Care Insurance.*—The GAO would study standards for inflation protections and non-forfeiture benefits for private long-term care insurance policies, and report to the Committee on Ways and Means by April 1, 1990.

The Committee intends that standards for inflation protection and non-forfeiture benefits are important considerations for con-

sumer protection and that the National Association of Insurance Commissioners should act to address these issues.

(d) *Study of Administrative Costs.*—The GAO would review the costs to physicians and other providers of complying with the administrative requirements of the Medicare program. The study will include an examination of the trends of these costs since 1982.

(e) *PRO Review of Non-physician Services.*—PRO's would be required to establish procedures for involving non-medical doctors in the review of services within their own professions.

(f) *PRO Quality Denials.*—PRO's would reconsider formal notices of quality denials before notifying beneficiaries of such denials.

(g) *Hospital-based Nursing Schools.*—Direct medical education reimbursement would be authorized for certain hospital-based nursing schools.

(h) *Cancer Center Treatment Demonstration Project and Study.*—A cancer center demonstration program would be authorized in two cancer center hospitals. Under the demonstration, payment would be authorized for treatment under certain experimental protocols. The Office of Technology Assessment (OTA) would study and report on the appropriateness of Medicare payments for the treatment of patients under these protocols.

(i) *Innercity Hospital Triage Demonstration Project.*—The Secretary would be authorized to establish one project in an innercity public hospital which has already established a triage effort.

(j) *Home Health Paperwork Study.*--The GAO would study the costs and justifications for the current administrative requirements on Medicare certified home health agencies. The GAO would review the feasibility of eliminating the requirements for dual reporting to the Medicare and Medicaid programs.

(k) *Home Health Waiver of Liability.*—For purposes of the presumptive waiver calculation, denials would be deemed final if the initial denial is not appealed by the home health agency within the current 60-day period allowed for the appeal, or if the fiscal intermediary issues a decision on reconsideration. The Secretary would be required to monitor the volume of denied claims and to report to the Congress if the volume of appealed denials is substantially increased.

BENEFICIARIES

23. Part B premium

The requirement that the Part B premium be set at 25 percent of program costs would be extended through calendar year 1990.

OTHER

24. Extension of the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage for SSDI disability

Individuals who obtain health insurance coverage under COBRA coverage provisions, and who are receiving SSDI disability payments, would be eligible to continue to purchase coverage for the period from 19 to 29 months. The premium for these 11 additional months would be set at 150 percent of the average cost of coverage

for the employer, rather than the 102 percent rate set for the initial 18 months.

REVISIONS TO THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

1. Supplemental premium rates

The supplemental premium rates would be reduced by one-half beginning in calendar year 1989.

The rates would be reduced from 15 to 7.5 percent in 1989, 25 to 12.5 percent in 1990, 26 to 13 percent in 1991, 27 to 13.5 percent in 1992 and from 28 to 14 percent in 1993. The supplemental premium rate would be set at the 14-percent level in 1994 and in subsequent years.

2. Option to decline medicare catastrophic coverage

(a) *Voluntary Option.*—Part B and prescription drug catastrophic coverage and current physician and outpatient services covered by Part B would be optional as a package. Part A catastrophic coverage benefits would become a part of the basic Part A program.

(b) *Opt-out Process.*—Current beneficiaries would have a one-time option to disenroll from Medicare Part B coverage and Part B and prescription drug catastrophic coverage during the period between October 1, 1989 and December 31, 1989. New beneficiaries would also be given a one-time opportunity to decline participation in Medicare Part B and Part B and prescription drug catastrophic coverage.

Beneficiaries who decline participation in Part B and catastrophic coverage could subsequently re-enroll, but would be subject to substantial penalties.

Beneficiaries would automatically be enrolled in Part B and prescription drug catastrophic coverage and current Part B coverage unless they submit an application to the Health Care Financing Administration (HCFA) to decline coverage.

HCFA would provide information to all Medicare beneficiaries on the option to decline coverage. The information package would include: a general description of the Medicare program and catastrophic coverage benefits; the subsidy value of optional benefits; an analysis of the costs of alternative private insurance coverage; and, an explanation of payment penalties for late enrollment. The information package would also include a request form for a disenrollment application.

Upon request, HCFA would provide disenrollment applications to Medicare beneficiaries. HCFA would send beneficiaries additional information to explain the subsidies and costs of alternative private sector coverage and a full explanation of payment penalties for late enrollment. Each beneficiary would be required to sign the application in order to opt out of Medicare Part B and Part B and prescription drug catastrophic benefits and premiums. In the case of married beneficiaries, adjustments would be made for couples filing separately.

HCFA would provide a hot line to respond to questions of Medicare beneficiaries.

(c) *Payment Penalties for Delayed Enrollment.*—The current penalty for delayed Part B enrollment would be retained. The supple-

mental premium would be 15 percent higher each year for those who enroll at any point after the designated disenrollment period.

(d) *Exemption for Beneficiaries With Employer-Provided Primary Health Coverage.*—Beneficiaries with employer-provided health insurance coverage could apply on a year-to-year basis to be exempt from Part B and catastrophic coverage benefits and premiums, without penalty. Upon termination of employment-based health insurance coverage, such beneficiaries would have a 60-day period to decline Part B and catastrophic coverage.

3. Part B premium

The basic Part B premium would be set at 25 percent of the costs of the basic Part B program for calendar years 1991 through 1993.

4. Catastrophic flat monthly premium

The Part B premium would be increased on an *ad hoc* basis for calendar years 1990 through 1993. The premium would increase by $3.50 in 1990, $4.00 in 1991, $4.10 in 1992 and $4.10 in 1993.

This portion of the premium and the previously enacted catastrophic coverage flat premium would become a part of the basic Part B premium in 1993 and would increase at the cost-of-living-adjustment (COLA) rate for 1994 and subsequent years.

5. Prescription drug deductible

The deductible for prescription drugs would be increased from $600 to $800 in calendar year 1991 and from $652 to $950 in calendar year 1992.

6. Payments to providers

Payments of Medicare claims would be delayed by five days at the end of fiscal year 1990, six days at the end of fiscal year 1991, three days at the end of fiscal year 1992 and by one day at the end of fiscal year 1993.

The delayed payments would be made on October 1 of each year.

7. Federal catastrophic drug insurance (CDI) trust fund

The Managing Trustee would transfer funds from the SMI trust fund to the CDI trust fund sufficient to cover prescription drug expenditures for calendar years 1990 through 1993. The Managing Trustee would transfer an amount sufficient to assure end year balances of 150 percent of expenditures in 1990, 100 percent of expenditures in 1991, 75 percent of expenditures in 1992 and 50 percent of expenditures at the end of 1993.

Beginning in 1994, the Managing Trustee would transfer to the CDI trust fund amounts from the Medicare supplemental premium and catastrophic coverage monthly premium. The amount of funds attributable to the catastrophic coverage monthly premium transferred to the CDI trust fund would increase by the percentage by which prescription drug outlays in years subsequent to 1993 exceed outlays for prescription drugs in 1993. The portion of supplemental premium revenues transferred to the CDI trust fund would increase by the percentage by which aggregate supplemental premiums for taxable years subsequent to 1993 exceed premiums imposed for 1993.

8. Medicare catastrophic coverage account

The Secretary would be required to report each year through 1993 on the balance between the revenues and receipts included in this package, and the costs of restructured benefits. This report would be submitted with the Trustees Report on the Part B trust fund due on April 1 of each year. The General Accounting Office would comment on the Secretary's report within 60 days.

Part A catastrophic coverage benefits would be incorporated into Part A benefits, and Part B catastrophic coverage benefits would be incorporated as Part B benefits.

The Hospital Insurance Catastrophic Coverage Reserve Fund would be eliminated. The portion of revenues and receipts from the supplemental premium and the Part B premium not placed into the Federal Catastrophic Drug Insurance Trust Fund would continue to be placed into the Part B trust fund.

9. Miscellaneous provisions

Additional necessary conforming revisions would be made to the provisions of the Medicare Catastrophic Coverage Act. Technical amendments to the Medicare Catastrophic Coverage Act would also be made.

Subtitle C—Human Resources Amendments

I. Children's Initiative

A. Social Services

Title XX.—Would increase the entitlement ceiling for the Title XX social services block grant by $200 million in fiscal year 1991, $400 million in fiscal year 1992, and $600 million in fiscal year 1993 and thereafter.

B. Foster Care and Child Welfare Amendments.

1. *Increase in Child Welfare Authorization.*—Effective beginning fiscal year 1990, would permanently increase the authorization level of the Title IV-B child welfare services program from $266 million to $400 million.

2. *Three-year Extension of Authority to Transfer Foster Care Funds.*—Would extend the foster care ceilings and the authority to transfer foster care funds to child welfare services for three years, through September 30, 1992, and would permanently increase the Title IV-B child welfare services appropriations level at which a mandatory foster care ceiling is triggered from $266 million to $400 million.

3. *Requirement for State Report on Preventive Services.*—Effective beginning fiscal year 1990, would require that the State child welfare agency compile on an annual basis a detailed report specifying which preplacement preventive and reunification programs and services are operating and available to children and families in need in the State.

4. *Increase in Federal Reimbursement for Foster Parent Training.*—Effective beginning fiscal year 1990, would allow Federal reimbursement for foster and adoptive parent training under Title IV-E at the rate of 75 percent. In addition to travel and per diem,

reimbursable activities would include the short-term training of foster and adoptive parents and the staff of licensed or approved child care institutions, in ways that increase their ability to provide support and assistance to Title IV-E foster and adopted children.

5. *Require Health and Education Records in Case Plan.*—Effective beginning fiscal year 1990, would require that a foster child's case plan include, at the time of placement, a record of his educational and health status. Also would require that Medicaid-eligible foster children receive health examinations and follow-up services.

6. *Address the Special Problems of Adolescents.*—Would revise the purpose of the foster care independent living program. The revised program would be called the Foster Care Adolescent Services Block Grant and would be authorized for three years beginning in fiscal year 1990. The entitlement level of the program would be increased to $100 million annually. States would be required to spend at least 70 percent of the funds on independent living services to foster children age 16 or more; the remaining funds could be used on a wide range of services to foster children age 10 or older.

7. and 8. *Improving Data Collection, Oversight and Accountability.*—Would require that the Secretary of Health and Human Services (HHS) collect and report, on an annual basis by the last day of the calendar year, foster care and adoption information (based on the preceding Federal fiscal year) useful for monitoring the operation of the child welfare programs under Titles IV-E and IV-B, including information on Federal and State expenditures, program participation, the characteristics of children in foster care and adoption, the monthly rate of payment for foster care maintenance, and fiscal and compliance reviews and disallowances resulting from such reviews. Proposed regulations to implement this requirement would have to be issued within 4 months of enactment, with final regulations issued 10 months after enactment. The new State reporting system would take effect in fiscal year 1992; however, HHS would be instructed to prepare two interim reports for fiscal years 1990 and 1991.

In addition, the Secretary of HHS would be required to continue to collect certain aggregate and case-specific child abuse and neglect data.

The provision also would substantially revise the process for evaluating State compliance with section 427 of the Social Security Act and would prevent HHS from collecting any disallowances associated with triennial reviews under current law.

C. SSI Disabled Children Amendments.

1. *Outreach Program for Disabled and Blind Children.*—Effective on the date of enactment, would establish a permanent SSI outreach program for disabled and blind children.

2. *Individual Functional Assessments of Children.*—Effective October 1, 1989, would require the Secretary of HHS, in determining SSI eligibility for the blind and disabled, to assess individually each child's functional limits that interfere with the activities of daily living, recognizing the age of the child.

3. *Presumptive Disability Based on Genetic or Congenital Impairments for Children under Four Years Old.*—Effective October 1,

1989, would require the Secretary of HHS to presume eligibility for SSI of children under four years old who were born with genetic or congenital impairments that are likely to test positively for a disability later when medical professionals can administer a valid test at an older age.

4. *Revised Listings of Impairments for Children.*—Would require the Secretary of HHS to publish a notice of proposed rulemaking on the "Revised Childhood Listings of Mental Impairments" within 60 days after the date of enactment, with final regulations issued nine months after enactment.

Also would require the Secretary to solicit advice from childhood disability experts on changes that should be made to the children's "Listing of Impairments" so that they account for medical and functional rules that are appropriate to the age of the child. Would require publication of proposed revisions for public comment within 18 months from the date of enactment. Regulations would have to be final 24 months after the date of enactment.

5. *Eligibility for Recipients with Weekly or Biweekly Income.*—Effective October 1, 1989, would require the Secretary to deem certain individuals eligible for SSI benefits for the purpose of retaining Medicaid eligibility as long as they would be eligible for SSI benefits otherwise. An individual must meet three conditions: (1) he must receive earned income on a regular weekly or biweekly basis; (2) he must be ineligible for SSI for the month because of an extra paycheck; and (3) he must be eligible for SSI if the amount of his earned income in such month were equal to his average monthly rate of pay.

6. *SSI Benefit for Disabled Children of Parents Who Work Overseas.*—Effective October 1, 1989, would extend SSI benefits to disabled children who reside with parents working overseas.

7. *SSI Personal-Needs Allowance for Certain Severely Disabled Children.*—The Committee agreed to extend the $30-per-month SSI personal-needs allowance to certain severely disabled children who qualify for home-based services under a State Medicaid program and would otherwise qualify for SSI if parental income were not deemed to the child.

8. *Intergenerational Demonstration Project for Disabled Children.*—Effective October 1, 1989, would authorize demonstration projects in 10 communities to test the use of volunteer senior aides to provide basic medical assistance and support to families with disabled or chronically ill children.

9. *Treatment of Income-Producing Property under SSI.*—The Committee approved a rule that would treat income-producing assets under the SSI program in a way that parallels their treatment under the Food Stamp program. Work-related equipment used in a trade, business, or by an employee would be excluded from countable resources.

D. Child Support Enforcement Amendments

1. *Extension of IRS Intercept for Non-AFDC Families.*—Effective on the date of enactment, would extend for five years present law that allows States to request that the Internal Revenue Service (IRS) collect child support arrearages of at least $500 out of income

tax refunds due to non-custodial parents. Since the current provision expires at the end of 1990, it would be extended through 1995.

Effective January 1, 1990, would eliminate the minor child restriction on non-AFDC, court-ordered child support arrearages under the income tax refund offset for adults with a current support order who are disabled, as defined under OASDI or SSI.

2. *Medicaid Transition in Child Support Cases.*—Effective October 1, 1989, would make permanent that Medicaid benefits continue for four months after a family loses AFDC eligibility as a result of collection of child support enforcement payments under the IV-D program. Would conform this requirement to the Family Support Act by extending these benefits for a total of 12 months after a family leaves AFDC, due to collection of child support. The current provision expires October 1, 1989.

II. INITIATIVE FOR THE POOR ELDERLY

A. SSI Benefit Increase

Effective October 1, 1990, would increase SSI benefits by $2 per month for individuals, and $3 per month for couples.

B. Improve Program Participation

Effective on the date of enactment, would establish a permanent SSI outreach program for adults. Would require the Secretary of HHS to report annually on the effectiveness of this program.

C. Representative Payee Reform

Effective July 1, 1990, would prohibit persons who have been convicted of violations of certain provisions of the Social Security Act and the U.S. Code, or who have been dismissed for misuse of payments, from being certified as representative payees, and would improve the process for selecting representative payees.

The Secretary would also be required to maintain a list in each Social Security Administration office of all agencies and organizations providing representative payee services. Community based nonprofit social services agencies would be allowed to receive a fee from beneficiaries, as determined by the Secretary, for providing representative payee services.

D. Treatment of Income in Shared Living Arrangements

Effective January 1, 1990, would count the lesser of the actual value of in-kind assistance received by individuals, or the current law one-third of the SSI benefit, against the SSI benefit. Would require the Secretary to study the effect this provision has on SSI beneficiaries and the administration of the program, and to report to Congress not later than two years after the date of enactment.

E. Treatment of Transportation Gifts

Would exclude from income gifts of domestic commercial transportation tickets given to an individual or eligible spouse, which are used by that individual or spouse and not converted to cash.

F. Separated Couples Treated Jointly

Would consider a husband and wife who are aged, blind, or disabled, who have been living apart for one full month to be treated as separate individuals.

G. Treatment of Burial Space

Effective October 1, 1989, would exclude interest and accruals on burial spaces from resources for SSI purposes.

H. SSI Work Incentives

Effective July 1, 1990, would allow social security disability insurance recipients who lose benefits because of earnings to become eligible for SSI and the work incentive provisions authorized by section 1619 of the Social Security Act.

I. Treatment of Victims' Assistance under SSI

Would exclude from income victims' assistance grants received by SSI recipients if they can show that the payment was compensation for expenses incurred or losses suffered as a result of a crime.

J. Improve Social Security Administration Services and Beneficiary Protections

The Committee agreed to apply to SSI recipients several provisions for improved services and protections that were adopted by the Committee and applied to social security beneficiaries.

III. MISCELLANEOUS AMENDMENTS

A. Unemployment Compensation and AFDC—

1. *Optional Benefits for Non-Professional School Employees.*—Would allow States the option to provide UC benefits to nonprofessional school employees between academic years or terms.

2. *Prohibition on Collateral Estoppel.*—Would prohibit the courts from using UC hearing decisions to stop law suits on other employment related issues.

3. *Prohibition on Implementation of Certain AFDC Regulations.*—The Committee agreed to extend to October 1, 1990, the moratorium barring the Secretary of Health and Human Services from implementing, in whole or in part, the proposed regulations published in the Federal Register on December 14, 1987. These regulations would restrict the use of AFDC emergency assistance funds for homeless families, and would limit States' authority to use AFDC funds for shelter in temporary quarters, whether as a basic or special need.

4. *Administrative Expenses in Self-Employment Demonstration Projects.*—The Committee authorized appropriations of $1 million to cover State administrative expenses for operating self-employment demonstration projects, which were authorized by the Omnibus Budget Reconciliation Act of 1987.

5. *Minnesota Family Investment Plan (MFIP) Demonstration Project.*—The Committee agreed to an amendment which would allow the State of Minnesota to conduct a demonstration project of the Minnesota Family Investment Plan (MFIP). The goals of the

MFIP are to simplify the State's welfare system and encourage families to work toward self-sufficiency.

IV. AFDC QUALITY CONTROL

A. Resolve the Backlog of Disallowances through FY90

Would subject States to potential disallowances if their official error rates are above the higher of the lowest national annual average achieved in prior years, or in the case of fiscal years 1981 and 1982, the target error rate in effect for those fiscal years for the respective States. State official error rates would be recalculated excluding so-called "technical errors."

All States subject to potential disallowances could either pay 75 percent of the potential disallowance or appeal directly to the Departmental Appeals Board. There would be no appeal to the Secretary for a waiver of the disallowance. States would have six months from the later of the date of enactment, or the official announcement of the disallowance, in which to file an appeal. The Board would be required to rule on the appeal within 12 months from the date on which the appeal is filed. The Board's decisions would be subject to judicial review. States ultimately found to owe disallowances would pay interest on the final amount from the date of the Departmental Appeals Board decision.

These provisions would take effect on July 1, 1989, and would apply to potential disallowances for fiscal years 1981 through 1990.

B. Permanently Modify the Quality Control System after Fiscal Year 1990

Proposes a new system under which the official State error rates would be the midpoint of the confidence interval around each State estimate. Confidence intervals would be set at the 95 percent level.

States with error rates below one-half of the lowest sum of the national average overpayment and underpayment error rates ever achieved in prior years, beginning with fiscal year 1981, would receive incentive payments equal to half the difference between the incentive threshold and the State's error rate, times the Federal share of the State's total payments. Technical errors would be excluded.

States with error rates above one percentage point, plus the lowest sum of the national average overpayment and underpayment error rates ever achieved in prior years, beginning with fiscal year 1981, would be identified for potential disallowances equal to the Federal share of erroneous payments in excess of the error rate threshold. Technical errors would be excluded.

As in the resolution of the backlog of disallowances, States could pay 75 percent of the proposed disallowance amount or appeal the sanction directly to the Departmental Appeals Board. Interest would be charged on disallowances ultimately imposed after appeals are exhausted, to dissuade States from simply delaying the collection by appealing.

States would be required to collect and report data on underpayments and negative case actions as part of the basic quality control sample. The Secretary would be required to study negative case actions and make recommendations to Congress on how to incorpo-

rate them into State error rates and the Federal incentive and disallowance formulas. States would have to begin collecting and reporting all data by no later than October 1, 1990. The Secretary would be required to report to Congress no later than October 1, 1992.

SUBTITLE D—TRADE PROVISIONS

1. Trade agency authorizations

The bill combines three separate trade agency authorizations of appropriations under the jurisdiction of the Committee.

The bill authorizes appropriations of $39,943,000 for the U.S. International Trade Commission (ITC) for fiscal year 1990, the amount requested by the ITC. Of this amount, not more than $2,500 may be used for reception and entertainment expenses, subject to approval of the Chairman.

Further, the bill authorizes a total amount of $1,075,290,000 for salaries and expenses for the U.S. Customs Service for fiscal year 1990. The bill authorizes appropriations for fiscal year 1990 for noncommercial operations of not to exceed $418,822,000, and authorizes appropriations not less than $656,468,000 for commercial operations. These amounts maintain current levels of service, provide for authorization of the fiscal year 1989 pay raise, and reauthorize unfunded Customs drug enforcement programs from the Anti-Drug Abuse Act of 1988 (Public Law 100-690). The bill also authorizes appropriations not to exceed $128,128,000 for Operations and Maintenance of the Customs Aviation Program, as requested by the Administration.

Further, the bill authorizes appropriations for the Office of the U.S. Trade Representative (USTR) of $21,143,000, of which not to exceed $89,000 may be used for entertainment and representation expenses and $1 million would remain available until expended.

2. Customs user fee amendments

In February 1988 the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) adopted a panel finding that the present ad valorem user fee structure is inconsistent with U.S. obligations under the GATT. The bill incorporates the substance of H.R. 2628, the "Customs User Fees Amendments Act of 1989" providing a revised customs user fee authority that addresses the issues raised by the GATT ruling as an interim measure for one year, pending a six-month study by the General Accounting Office of the costs of Customs Service commercial operations. For fiscal year 1990, the user fee on any formal entry will be 0.17 percent ad valorem or $575, whichever is less. The costs of commercial operations on which the fee level is based will exclude air passenger processing costs, export control costs, and costs of international affairs activities. The exceptions to application of the fee under present law will continue, but the costs of processing such entries will be funded from general revenues rather than from user fees applied to other entries.

The bill exempts Israel from the existing and interim user fees if the U.S. Trade Representative determines that Israel has provided reciprocal concessions in return. The bill also provides the Customs

Service authority to enforce customs user fees, and authorizes Customs to accept reimbursement for services at foreign trade zones near small airports. Finally, the bill extends the user fee authority under present law for one year, until September 30, 1991.

3. Miscellaneous Customs Provisions

The bill makes the Office of the Commissioner of Customs a Presidential appointment, subject to Senate confirmation. It also provides that the Commissioner shall carry out duties and powers as prescribed by the Secretary.

Additional provisions of the bill authorize $10 million in discretionary spending from the Customs Forfeiture Fund; provide more detailed annual reporting requirements for the Fund; lift the $100,000 limitation on administrative processing of all uncontested cash seizures permit the transfer of forfeited aircraft and property to the Civil Air Patrol.

4. Making the Superfund excise tax consistent with the General Agreement on Tariffs and Trade (GATT)

The Committee approved, without amendment, an Administration proposal (contained in H.R. 2610) to make the Superfund excise tax on domestic crude oil and imported petroleum products (including crude oil) consistent with the GATT.

In June 1987, the GATT adopted a panel finding that the present 3.5-cents-per-barrel differential between the Superfund excise tax on domestic oil (8.2 cents per barrel) and on imported petroleum products (11.7 cents per barrel) is inconsistent with national treatment obligations. The Administration's proposal is a revenue neutral change that applies a 9.7-cents-per-barrel tax on both domestic and imported oil, effective October 1, 1989.

SUBTITLE E—AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT AND RELATED PROVISIONS

SUBPART A—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Section 10401 provides that subtitle E should be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1989" and section 10402 sets forth congressional findings.

Section 10411. Termination date

Section 10411 repeals the September 30, 1995 termination date on duty-free treatment under the CBI.

Section 10412. Treatment of product exemptions

Section 10412 establishes a statutory Guaranteed Access Level program and duty-free treatment for imports of apparel and other textile products assembled in CBI countries of U.S. cut and formed fabric or of certain foreign fabric, and grants 50 percent duty reductions on imports of textiles and apparel articles subject to import quotas. Section 10412 also grants 50 percent duty reductions on imports of footwear, except leather footwear, and handbags, lug-

gage, flat goods, work gloves, and leather-wearing apparel from CBI countries currently exempt from duty-free treatment.

Section 10413. Worker rights

Section 10413 includes internationally-recognized worker rights conditions for the designation of CBI countries that are consistent with the existing standards under the Generalized System of Preferences (GSP) program, and requires the President to conduct a biennial review of CBI eligible countries based on all statutory designation criteria.

Section 10414. Reports

Section 10414 requires a report by the President to the Congress every 3 years on the operation of the CBI program.

Section 10415. Eastern Caribbean and Belize

Section 10415 expresses the sense of the Congress on the need for special efforts to improve the ability of the Eastern Caribbean countries and Belize to benefit from the CBI.

SUBPART B—AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE AND OTHER PROVISIONS AFFECTING CBI BENEFICIARY COUNTRIES

Section 10421. Sugar imports

Section 10421 establishes a guaranteed minimum floor at the 1989 level for sugar imports from CBI countries under the U.S. sugar quota program, requires the reallocation of unused and suspended or terminated sugar quotas to CBI countries, and authorizes trade agreement compensation if these actions violate U.S. international obligations.

Section 10422. Tourist allowances

Section 10422 increases the duty-free tourist allowance for U.S. residents returning from CBI countries from $400 to $600 and by 1 additional liter of alcoholic beverages if produced in the region, and increases the duty-free allowance for tourists returning from U.S. insular possession from $800 to $1,200.

Section 10423. Articles assembled or processed from U.S. content

Section 10423 grants duty-free and quota-free treatment to articles assembled or processed in CBI countries wholly of U.S. components or ingredients, except water.

Section 10424. Rules of origin

Section 10424 authorizes the President to proclaim, effective January 1, 1991, new rules for determining the origin of articles for duty-free CBI treatment, subject to consultation and reporting requirements and a 90-day Congressional layover period.

Section 10425. Cumulation

Section 10425 creates an exception to the general rule for cumulation of imports to determine material injury to domestic industries in antidumping and countervailing duty investigations if CBI imports are the subject of the investigation.

Section 10426. Ethanol

Section 10426 establishes several different criteria for the duty-free treatment of ethanol imports from CBI countries and U.S. insular possessions.

Section 10427. Conforming GSP amendment

Section 10427 amends the GSP statute to specifically require "substantial transformation" of an eligible article in a beneficiary developing country as a condition for duty-free treatment, in conformity with the existing CBI requirement.

Section 10431. Scholarship assistance

Section 10431 requires the Agency for International Development to establish, in cooperation with States and the private sector, a program of scholarship assistance for students from CBI countries to study in the United States in subject areas critical to the development needs of their countries. The Federal share would be funded under the Foreign Assistance Act of 1961.

Section 10432. Tourism promotion

Section 10432 expresses the sense of the Congress that U.S. Government agencies should assign a high priority to projects that promote tourism in the Caribbean, and requires the Secretary of Commerce to complete a study on tourism development strategies for the region.

Section 10433. Pilot preclearance

Section 10433 requires the U.S. Customs Service to carry out preclearance operations during fiscal years 1990 and 1991 at a site in the Caribbean appropriate for testing the extent that preclearance operations can assist in tourism development. The Commissioner must report to the Congress on the results of the pilot program.

Subtitle F—Tariff Provisions

Subtitle F contains approximately 175 miscellaneous tariff and trade provisions covering duty suspensions, duty-free measures, classification changes, and customs-related nontariff measures.

TITLE XI—REVENUE PROVISIONS

This summary is designed as a brief explanation of significant actions taken by the Committee on Ways and Means with respect to revenue issues in the reconciliation of the fiscal year 1990 budget. This summary is not intended to be the legislative history of the actions of the Committee.

A. Prior Committee Action

In its consideration of H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (P.L. 101-73), the Committee agreed to repeal the three special tax provisions contained in the Internal Revenue Code (Code) to assist financially-troubled financial institutions, effective for all transactions occurring on or after May 10, 1989. Under prior law, these provisions were scheduled to expire on January 1, 1990.

B. Capital Gains

The Committee agreed to an amendment providing individuals a 30-percent exclusion on the net capital gain from sales or exchanges of assets (other than collectibles) held more than one year which are disposed of during the period beginning September 14, 1989, and ending December 31, 1991. This gain would not be subject to the additional five-percent tax, commonly known as the "bubble." The amendment would result in a maximum regular tax rate on these capital gains of 19.6 percent. Depreciation, amortization and depletion would be recaptured in full. This exclusion would not be taken into account for purposes of computing the alternative minimum tax.

With respect to dispositions of assets acquired after December 31, 1991, the Committee agreed to provide that an individual would be allowed to index the basis of the asset for inflation occurring after 1991 for purposes of determining gain (but not loss). Indexed assets include corporate stock (other than certain preferred stock and stock in foreign corporations) and tangible assets which are capital assets or business assets and which are held more than one year. In addition, the Committee agreed that the net capital gain (other than from the sale of collectibles) on assets sold after December 31, 1991, would not be subject to the additional five-percent rate, thus resulting in a maximum 28-percent rate. Depreciation, amortization and depletion would be recaptured in full.

The Committee also agreed that the material participation standard in the passive loss rules would be modified for individuals owning timber.

C. Child Care Initiative

1. Increase in earned income tax credit

The Committee agreed to increase the amount of the earned income tax credit (EITC) and to adjust the credit for family size. As a result, the credit available to a family with three dependent children would be greater than the credit available to a family with equal income, but only one or two children.

In addition, the Committee agreed to a supplemental credit for families with any children under the age of six. Like the EITC, the supplemental credit would be refundable; that is, it would be available in cash to families with zero tax liability.

2. Modifications to Title XX of the Social Security Act

The Committee action would permanently increase funds for Title XX of the Social Security Act by $200 million for fiscal year 1990, by $350 million for fiscal year 1991, and $400 million in fiscal year 1992 and subsequent fiscal years. These funds would be earmarked for child care services and child care related administration and training, as well as the enforcement of State child care standards. A State receiving earmarked funds under Title XX would have to have in effect State child care standards addressing several specific categories. The standards would have to apply to all Title XX funded child care and to any child care services delivered by providers that receive public funds for child care services.

D. Temporary Extensions

1. Employer-provided educational assistance

The exclusion for employer-provided educational assistance would be restored retroactively to the date of its expiration under prior law (years beginning on or after January 1, 1989). The extension is for three years beginning from that date, through December 31, 1991. The agreement also clarifies the extent to which employer-provided educational assistance is excludable as a working condition fringe benefit.

2. Extention and modification of targeted jobs credit

Under the agreement the targeted jobs tax credit (TJTC), which under present law is scheduled to expire for years after December 31, 1989, would be extended for two years through December 31, 1991.

3. Extension of qualified mortgage bonds

The Committee agreed to extend for two years the authority to issue qualified mortgage bonds and the mortgage credit certificate program, through December 31, 1991.

4. Extension of qualified small-issue bonds

The Committee agreed to extend for two years the authority to issue qualified small-issue bonds for manufacturing facilities and certain property for first-time farmers, through December 31, 1991.

5. Extension of energy investment credit for geothermal energy property

The nonrefundable ten-percent energy tax credit for business geothermal property would be extended for two years, through December 31, 1991, at the present rate.

6. Extension of 25-percent deduction for health insurance of self-employed individuals

The Committee agreed to a two-year extension of the deduction for health insurance of self-employed individuals, through December 31, 1991. The agreement would also clarify the application of the deduction in the case of certain S corporation shareholders.

E. Permanent Extensions

1. Changes in the low-income housing tax credit

The low-income housing tax credit would be made permanent with certain modifications.

2. Research credit made permanent; modifications to credit

The Committee adopted a permanent 20-percent tax credit that would be allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The base amount for the current year would be computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the three preceding years.

As under current law, a taxpayer's base could not be less than a certain percentage of current-year qualified research and development expenditures. The base limitation percentage would be 50 percent for 1990; 55 percent for 1991; 60 percent for 1992; 65 percent for 1993; 70 percent for 1994; and 75 percent for 1995 and later years. Modifications to the general rules designed to assist start-up companies were included.

The university basic research credit would also be permanently extended. The amount of any deduction allowable to a taxpayer under section 174 of the Code, or any other provision for qualified research expenditures, would be reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

3. Allocation of research and development expenditures

The Committee agreed to provide a permanent rule under which taxpayers would allocate 64 percent of expenses for research and development conducted in the United States to U.S. source income, and would allocate 64 percent of expenses for research and development conducted outside the United States to foreign source income. The remainder would be apportioned on the basis of gross sales or gross income with certain restrictions. The amount of the remainder that is allocated to foreign source income on the basis of gross income would be limited to an amount that is no less than 30 percent of the amount that would be so allocated using the gross sales method.

4. Low-income housing credit and rehabilitation tax credit exempt from income phaseout of $25,000 exemption from passive loss rules

The Committee agreed to modify the present-law application of the passive loss restrictions to the rehabilitation tax credit and low-income housing credit by removing the adjusted gross income limitations on the $25,000 deduction equivalent allowance of the credit with respect to rental real estate activities.

F. Corporate Provisions

The Committee adopted several modifications to the Federal tax treatment of corporations. Several of the provisions adopted by the Committee were related to issues considered by the Committee in seven days of public hearings held in 1989 with respect to the tax aspects of mergers, acquisitions, and other transactions which increase levels of corporate debt.

The Committee decided to treat certain instruments with original issue discount and instruments that allow for the payment of interest with additional instruments of the issuer (for example, so-called "payment-in-kind" bonds) as preferred stock for Federal income tax purposes.

The Committee agreed to clarify the authority of the Treasury Department to issue regulations governing the classification of an instrument to allow characterization of an instrument having significant debt and equity characteristics as part debt and part equity. In addition, the Committee directed the Treasury Department to require reporting with respect to certain corporate acquisition and recapitalization transactions occurring after March 31, 1990, and would require the Treasury Department to study various issues with respect to the tax treatment of debt and equity.

The Committee adopted a proposal requiring that earnings and profits be computed on a group-wide basis for purposes of determining whether the treatment of any distribution during a year by a member of a group of corporations filing a consolidated return to a nonmember shareholder.

The Committee agreed to a rule requiring that securities received by transferors in certain non-recognition transactions under section 351 of the Code be treated as "boot".

The Committee also agreed to change the threshold for not taking into account built-in gains and built-in losses of a corporation under rules for ownership transfers of corporations contained in sections 382 and 384 of the Code to the lesser of 15 percent of the fair market value of the assets of the company or $10 million.

The Committee adopted a proposal modifying the excess loss account recapture rules to prevent the reallocation of the excess loss account to reduce the basis of subsidiary debt held by the parent. The Committee also agreed to a rule requiring that certain dividends representing a "return of capital" be treated as extraordinary dividends under section 1059 of the Code (regardless of holding period), thus requiring reduction in stock basis.

The Committee agreed to limit a corporate taxpayer's deductions for interest paid to related parties in certain transactions. Disallowed amounts would be nondeductible currently, but could be car-

ried over to subsequent years. The provision generally applies only to payments of interest to recipients that are not subject to U.S. income taxation on such payments, and then only to the extent that the excess of the payor's total interest expenses over interest income is greater than 50 percent of the corporation's adjusted taxable income.

The Committee also adopted a provision which limits the ability of a corporation to obtain a refund of taxes paid in prior years by carrying back a net operating loss where the losses were created by the interest deductions allocable to certain corporation equity-reducing transactions ("CERTs").

In addition, the Committee adopted a provision which provides, in general, that no gain or loss would be recognized by a cooperative housing corporation upon the distribution of a dwelling unit to a tenant-stockholder.

The Committee also adopted a proposal requiring S corporations to pay estimated tax payments based upon certain entity-level items.

The Committee also agreed to several changes regarding the taxation of regulated investment companies (RICs) and their shareholders. The required ordinary income distribution of RICs would be increased to 98 percent. Dividends would be includible in income of a RIC when the stock becomes ex-dividend. Transferable mutual fund load charges generally would not increase a shareholder's basis in stock in a RIC, unless the shareholder held the stock for more than 30 days.

G. Employee Benefit Nondiscrimination Rules

1. Repeal of section 89

The Committee agreed to a repeal of the nondiscrimination rules contained in section 89 of the Code effective as if they were never included in the Tax Reform Act of 1986.

2. New nondiscrimination rule for executive-only health plans and health plans of professional service organizations

The Committee agreed to rules to prohibit discriminatory "executive-only" health plans, and to prohibit discriminatory health plans maintained by professional service organizations. In addition, the Committee decided to retain certain writing, notice, and other qualifications rules, with significant modifications, including limiting these rules to health plans, and lowering the excise tax for violations of these rules to a maximum of 10 percent of the amounts paid or incurred under the plan with respect to which the violation occurs.

H. Full Funding Limitation

Under present law, the Treasury Department is authorized to issue regulations providing relief from the full funding limitation, equal to 150 percent of current liability, to employers with younger workers and few retirees. The Committee agreed to a provision requiring the Treasury to issue regulations providing such relief. The amendment specifies that this relief be provided in a revenue-

neutral way by lowering the full funding limit below 150 percent (but not below 140 percent) for employers not entitled to such relief.

I. Employee Stock Ownership Plan (ESOP) Provisions

The Committee agreed to repeal the partial exclusion for interest received by certain lenders on loans to ESOPs under section 133 of the Code for ESOPs that own less than 30 percent of an employer's stock. The agreement also overrides Revenue Ruling 89-76, relating to the transfer of ESOP debt.

The deduction for dividends paid on employer securities held by an ESOP (Code section 404(k)) would be repealed for ESOPs that hold less than 30 percent of an employer's stock.

The provision permitting deferral of recognition of gain on the sale of employer securities to an ESOP under section 1042 of the Code would be restricted to taxpayers who held the securities for at least three years before the sale of the stock to the ESOP.

In addition, the Committee agreed to repeal the following provisions relating to the tax treatment of ESOPs:

(1) The 50-percent deduction from an estate for certain proceeds of employer securities sold by the estate to an ESOP (Code section 2057);

(2) The assumption of estate tax liability by an ESOP for employer securities acquired by the ESOP from a decedent (Code section 2210);

(3) The special limits on contributions to certain ESOPs under Code section 415(c)(6)(A); and

(4) The provision of Code section 382(1)(3)(C), under which stock acquired by an ESOP is not taken into account in determining whether an ownership change has occurred for purposes of determining applicable limits on net-operating-loss carryforwards following a change of ownership.

J. Pension Plan Assets Used To Provide Retiree Health Benefits

The Committee agreed to a provision permitting a one-time transfer of assets in an overfunded defined benefit plan to the Code section 401(h) account for retiree health benefits that is part of such a plan. The transfer could take place only in plan years beginning after December 31, 1989, and must be accomplished on or before December 31, 1991. The amount of the transfer could not exceed the amount of assets in excess of 140 percent of the plan's current liability or, if less, the assets needed to satisfy current retiree health liabilities. Amounts transferred are not includible in the employer's income, nor subject to the excise tax on reversions. The Committee also agreed to clarify the funding limits applicable to section 401(h) accounts.

K. Foreign Provisions

1. Taxable year of certain foreign corporations

The Committee adopted a provision generally requiring that the taxable year of a controlled foreign corporation (CFC) conform to the taxable year of its U.S. shareholders who, in the aggregate,

own more than 50 percent of the total value of the outstanding stock of the CFC. In the case of a foreign personal holding company (FPHC) that is not also a CFC, the proposal generally would require the company to adopt the taxable year of its shareholders who are U.S. persons and who, in the aggregate, own a majority of the value of the U.S.-owned outstanding stock of the FPHC.

The Committee also agreed to expand section 563(c) of the Code to allow a FPHC two and one-half months beyond the close of its taxable year to distribute its FPHC income earned in that year to its shareholders. Such distributions by a FPHC would be treated as having been distributed on the last day of its taxable year during which the income was earned.

2. Limitation on use of deconsolidation to avoid foreign tax credit limitations

The Committee agreed to give the Treasury Department authority to resource the income of certain corporations that are part of a commonly-controlled group of corporations, or to modify the consolidated return regulations, to the extent such resourcing or modification is necessary to prevent avoidance of the purposes of the foreign tax credit limitation rules.

3. Information with respect to certain foreign-owned corporations

The Committee adopted a provision authorizing the Treasury Department to impose additional U.S. recordkeeping and reporting requirements on certain corporations that are 25-percent foreign-owned and on the foreign powers of such corporations, and to impose penalties for noncompliance related to such information and recordkeeping.

4. Disposition of stock in domestic corporations by certain foreign shareholders

The Committee agreed to a provision providing that gain realized by foreign persons who own more than 10 percent of the stock in U.S. corporations on certain dispositions of such stock would be subject to net-basis U.S. tax, collected by means of withholding on a percentage of the gross proceeds. Special rules would apply to certain venture capital and investment partnerships.

The provision would not affect certain residents of certain treaty countries until after the Treasury has had a reasonable period, not to exceed three years, to renegotiate existing treaties.

5. Repeal of special treatment of interest on certain foreign loans

The Committee adopted a proposal repealing prospectively the transition rule in the Tax Reform Act of 1986 that delays, and then phases in, application of the separate foreign tax credit limitation with respect to high withholding tax interest received on certain third world loans involving the so-called "Baker 33" countries.

6. Capitalization of foreign research and development expenditures

Under present law, Code section 174 provides an immediate deduction for certain research and development expenses that would otherwise be chargeable to capital account, regardless of where the research and development is performed. The Committee agreed to

deny the benefits of section 174 for expenses with respect to research and development not performed in the United States. Such amounts would be deducted ratably over a period of not less than 60 months.

7. Treatment of foreign corporate dividends and Subpart F inclusion as unrelated business taxable income

The Committee agreed to provide that certain dividends paid by foreign corporations to tax-exempt entities and certain amounts of income of controlled foreign corporations that are included in the income of such tax-exempt entities under section 951 of the Code would be treated as unrelated business taxable income.

8. Allocation of interest of certain financial services businesses

The Committee agreed to permit U.S. affiliated groups that are "predominantly engaged" (i.e. 90 percent or more) in the financial services business to take into account the borrowings of their foreign finance subsidiaries when allocating interest expense for purposes of the foreign tax credit limitation.

L. Tax-Exempt Bond Provisions

The Committee agreed that transitional housing for the homeless would not be prohibited from qualifying for tax-exempt financing on the basis that it might be considered transient and that certain parts of a building providing social services to such residents would also qualify for tax-exempt financing.

The Committee agreed to permit issuers of qualified mortgage bonds issued prior to 1989 to elect to rebate arbitrage earnings to the Federal government rather than to mortgagors.

The Committee also agreed to extend the existing six-month exception to arbitrage rebate as follows: A new two-year exception could be elected for bond issues at least 75 percent of the net proceeds of which are to be used for construction and which are not private activity bonds (other than 501(c)(3) bonds and bonds for facilities owned by governmental units).

In addition, the Committee agreed to impose limits on bonds issued primarily to hedge against rising interest rates.

M. Limitation on Nonrecognition for Certain Exchanges

The Committee adopted a proposal conforming the standard for nonrecognition of gain under section 1031 of the Code, governing like-kind exchanges, to the standard under section 1033 of the Code which applies for purposes of nonrecognition on involuntary conversions. Thus, in order to qualify for nonrecognition under section 1031, the property that is received must be "similar or related in service or use" to the property that is transferred. Foreign real property would be treated as not similar or related in service or use to U.S. real property. The Committee also agreed to a proposal requiring that if a taxpayer directly or indirectly exchanges property with a related party in a transaction otherwise qualifying for nonrecognition under section 1031, and either party disposes of the property received within two years of the date of the transfer, then

the original exchange would not qualify for nonrecognition under section 1031.

Moreover, the Committee adopted a rule providing that in order to qualify for nonrecognition under section 1031, the property that is exchanged must have been directly held for use in a trade or business or for investment for at least one year immediately prior to the exchange, and the property that is received must be held for a purpose similar or related in service or use to that of the property relinquished for at least one year after the exchange.

N. Accounting Provisions

1. Repeal percentage-of-completion/capitalized-cost method of accounting

The Committee agreed to repeal the percentage-of-completion/capitalized-cost method of accounting. Thus, the percentage-of-completion method must be applied to all long-term contracts other than those contracts accorded special treatment under present law.

2. Treatment of franchises, trademarks, and trade names

The Committee agreed to repeal the provision which allows a ten-year write-off for fixed-sum payments for franchises, trademarks, and trade names for transactions where the payment exceeds $100,000. Payments subject to this repeal would thus be deductible over the actual useful life of the asset. The present-law rules allowing a deduction for contingent payments for franchises, trademarks, and trade names would also be modified.

3. Installment sales of timeshares and residential lots

The Committee also modified the installment sales treatment of timeshares and residential losts sold by C corporations.

O. Excise Tax Provisions

1. Extension of communications excise tax

The Committee agreed to make the three-percent telephone excise tax permanent.

2. Acceleration of deposit requirements for communications and air passenger transportation ticket excise taxes

The Committee acted to modify the collection of the telephone and air passenger transportation ticket excise taxes as follows: the tax for a semi-monthly period would be considered collected during the first week of the second following semi-monthly period and would be required to be deposited within three banking days after the end of that week.

3. Changes in excise tax on gasoline

The Committee adopted a proposal to collect the gasoline excise tax on receipt of the gasoline at the terminal, with the terminal owner being primarily liable for payment and the owner of the gasoline secondarily liable.

4. One-year suspension of automatic reduction in aviation-related taxes

The Committee agreed to suspend the Airport and Airway Trust Fund tax reduction trigger for one year (effective January 1, 1990), with the stipulation that a portion of the revenue raised by the suspension remain in the general fund where it will be available to be spent for Federal Aviation Administration operations and maintenance.

5. Oil spill liability trust fund tax to take effect on October 1, 1989

The Committee agreed to speed up the funding of the Oil Spill Liability Trust Fund by increasing the tax rate from 1.3 cents to 3 cents per barrel of domestic and imported oil beginning October 1, 1989, and continuing until the taxes credited to the Trust Fund equal $300 million, but not past December 31, 1991.

6. Elimination of excise tax on inactivated polio vaccine

The Committee agreed to exclude the inactivated poliovirus (IPV) vaccine from the definition of polio vaccine for purposes of the excise tax on vaccines, effective for vaccines sold on the date upon which any injuries or death resulting from the administration of IPV are no longer eligible for compensation under the terms of the National Vaccine Injury Compensation program.

7. Excise tax on ozone-depleting chemicals

The Committee agreed to impose an excise tax on those ozone-depleting chemicals currently subject to the Montreal Protocol. The tax would be generally imposed on the sale or use by the producer, manufacturer, or importer of ozone-depleting chemicals. Credits or refunds would be provided for halons and chemicals used in the production of rigid foam insulation. A certain amount of exports (described in current Environmental Protection Agency regulations implementing the Montreal Protocol) would be exempt from the tax, as would feedstock chemicals.

P. Employment Tax Provisions

1. Treatment of agricultural workers under wage withholding

The Committee agreed to a provision subjecting to income-tax withholding cash wages paid to agricultural workers if the workers are subject to Federal Insurance Contributions Act (FICA) withholding.

2. Payroll tax deposits

The Committee agreed to require employers who have accumulated at least $1 million in undeposited amounts withheld from employees' wages and FICA taxes to expedite their deposits of these amounts to the Federal government, beginning after December 31, 1993.

Q. Revision of Civil Penalties

The Committee approved, with amendments, the recommendations of the Subcommittee on Oversight to improve the penalty pro-

visions of the Code. In general, the information-reporting penalties would be modified so that the amount of the penalty would vary with the length of time in which the taxpayer corrects the failure. The various accuracy penalties (for negligence, substantial understatements, and misvaluation) would be consolidated and coordinated to eliminate stacking of penalties and to target the applicable penalty to the portion of the underpayment that is attributable to the proscribed conduct. The preparer, promoter, and protestor penalties would be modified in discrete areas. Finally, the flat ten-percent penalty for failure to deposit taxes would be modified so that the penalty amount would vary with the length of time within which the taxpayer corrects the failure.

R. Corporate Alternative Minimum Tax

The Committee agreed to remove all references to the taxpayer's book treatment in computing the present-law adjusted current earnings preference.

The Committee also agreed to the following additional amendments to the alternative minimum tax: the minimum tax credit for corporations would be expanded to include not only deferral items, as under current law, but also exclusion items. The dividends received deduction would be made available against the minimum tax if the corporation receiving the dividend and the corporation paying the dividend are eligible to file consolidated returns, without regard to whether they actually do. The present-law rule that excludes certain small home contractors from the requirement of using the percentage-of-completion method of accounting for minimum tax purposes would be expanded to include all home contractors. Research and experimental expenditures would no longer be a minimum tax preference for individuals who materially participate in the trade or business giving rise to these expenditures. There would be allowed for minimum tax purposes, as is currently allowed for regular tax purposes, an 80-percent dividends received deduction for companies owning 20 percent or more of the paying company's stock. The 90-percent limitation on the use of the foreign tax credit against the alternative minimum tax would be made inapplicable in the case of certain U.S. corporations. The minimum tax would be eliminated for certain farmer cooperatives with respect to dividends received from foreign sales corporations. The minimum-tax preference for installment sales would be eliminated, when the regular tax rules require the payment of the proper amount of interest on the tax deferred on these installment sales.

The Committee also agreed that the amount of the orphan drug credit disallowed solely by reason of the limitation based on the taxpayer's tentative minimum tax will increase the minimum tax credit allowable in future years.

The Committee also agreed to make a number of technical changes as recommended by the Subcommittee on Select Revenue Measures. Finally, the Committee agreed to direct the Department of the Treasury to make a study of the proper class lives for certain automobiles and light trucks used by commercial entities.

S. Other Provisions

1. Treatment of distributions by partnerships of contributed property

The Committee adopted a proposal that provides that in the case of a distribution of contributed property, the contributing partner is treated as recognizing gain or loss in the amount that he would have been required to take into account if the partnership had sold the property at its fair market value at the time of the distribution.

2. Tax exemption for Overseas Private Investment Corporation (OPIC)

The Committee agreed to recodify in the Code the pre-existing income tax exemption of OPIC.

3. Exclusion for certain overseas allowances received by Defense Department personnel

The Committee agreed to a provision allowing a tax exemption for certain allowances and other employee benefits related to overseas assignments of civilian employees and officers of the Department of Defense assigned to Defense Attaché Offices and Defense Intelligence Agency liaison offices outside the United States, or to special cryptologic activities outside the United States.

4. Use of return information to verify income for purposes of needs-based benefits and services of Department of Veterans Affairs

The Committee agreed to allow disclosure, to the Department of Veterans Affairs, of certain tax return information to assist in determining eligibility for, and establishing correct benefit amounts under, certain needs-based pensions and other programs for veterans.

5. Treatment of joint purchases of term interests and remainder interests by related parties

The Committee agreed to disallow any amortization deduction for a term interest in property for any period during which the remainder interest in the property is held by a related person.

6. Reporting by mortgage lenders with respect to points

The Committee agreed to require mortgage lenders to report on Form 1098 points paid during the year within which a loan is made and whether those points were paid by the borrower directly (as opposed to withheld from the loan disbursement).

7. Income exclusion for damages for personal injuries

The Committee agreed to limit the exclusion for damages for personal injuries for cases involving physical injury and physical sickness.

8. Increase in Joint Committee refund review threshold

The Committee agreed to increase from $200,000 to $1,000,000 the threshold above which tax refunds must be submitted to the Joint Committee on Taxation for review.

9. IRS study of private letter rulings process

The Committee agreed to require the Internal Revenue Service to report on ways to improve the private letter rulings process.

10. Divestiture required for executive officials

The Committee agreed to a provision allowing the rollover of capital gain on certain assets required to be divested by executive branch employees pursuant to an existing executive order governing ethics standards.

11. Treatment of certain investment-oriented life insurance contracts

The Committee modified the treatment of life insurance contracts that provide a death benefit that is payable only upon the death of one insured following, or simultaneously with, the death of another insured. If there is any reduction in such death benefit below the lowest level of such death benefit provided under the contract for the first seven contract years, then the seven-pay test would be applied for the first seven contract years as if the contract had originally been issued at the reduced death benefit.

12. Cellular telephones as "listed property"

The Committee agreed to treat cellular telephones as "listed property" for depreciation purposes (i.e., requiring that more than 50 percent of use be business-related to qualify for a depreciation deduction).

T. Technical Correction

The Committee adopted various technical corrections to and clarifications of previously enacted legislation.

III. BUDGET EFFECTS OF THE BILL

Table 1 below summarizes the budget effect (both outlays and revenues) by major provision. These estimates are identical to those made by the Congressional Budget Office (CBO) and the Joint Committee on Taxation. Only provisions which have a direct impact upon budget outlays or revenues are shown in these tables.

The reconciliation target (both outlays and revenues) was $8 billion for both fiscal years 1990 and 1991. The Committee recommendations have achieved total deficit reduction of $9.5 billion in fiscal year 1990 and $10.6 billion for fiscal year 1991. These numbers include $568 million and $31 million of scoring credit for fiscal years 1990 and 1991 respectively for actions the Committee took with respect to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (H.R. 1278).

Table 2 and Table 3 present the outlay and revenue impact for each provision in Title X and Title XI, respectively.

TABLE 1. TOTAL BUDGET IMPACT BY MAJOR CATEGORY

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Reconciliation Instruction					
Outlays	2,300	2,300	0	0	0
Revenues	5,300	5,300	0	0	0
Either outlays or revenues	400	400	0	0	0
Total	8,000	8,000	0	0	0
Reconciliation Provisions					
A. Social Security initiatives:					
Include deferred compensations in indexing of wage base	400	1,095	1,087	1,083	1,069
Miscellaneous amendments	−8	−24	−95	−160	−267
B. Trade initiatives:					
Custom service user fees	−154	773	−8	−12	−4
Caribbean Basin Initiative (CBI)	−31	−35	−39	−12	−2
Miscellaneous tariff measures	−122	−151	−177	−58	−13
C. Human Resource initiatives:					
Children's initiative	−132	−424	−655	−823	−838
Elderly poor initiative	−179	−268	−281	−333	−296
Miscellaneous amendments	−5	0	0	0	0
Quality Control amendments	0	−314	−515	−167	−161
Total	−316	−1,006	−1,451	−1,323	−1,295
D. Medicare initiatives:					
Part A	772	203	104	119	144
Part B	1,112	1,355	1,484	1,659	1,864

TABLE 1. TOTAL BUDGET IMPACT BY MAJOR CATEGORY—Continued

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Parts A and B	831	895	816	576	300
Beneficiaries	325	455	485	515	545
Total	3,040	2,908	2,889	2,869	2,853
E. Amendments to Medicare Catastrophic Program:					
Reduce supplemental premium	−2,475	−2,456	−2,375	−2,679	−3,029
Increase Part B premium [1]	975	1,960	2,750	3,810	4,240
Increase drug deductible	0	340	950	610	0
Make program voluntary	−90	−360	−160	−180	−180
Delay payments	2,000	700	−1,200	−940	−560
Total	410	184	−35	621	471
F. Child Care Initiative:					
Earned Income Tax Credit	0	−415	−4,072	−4,366	−4,673
Title XX	−120	−266	−362	−394	−400
Total	−120	−681	−4,434	−4,760	−5,073
G. FSLIC Scoring Credit (H.R. 1278)	568	31	351	310	213
H. Revenue initiatives:					
Capital gains reduction	2,871	3,813	2,697	−5,723	−5,177
Permanent extension and speedup of telephone excise tax	102	1,615	2,737	2,936	3,149
Employee Stock Ownership Plan proposals	1,392	1,828	2,298	2,743	3,184
Suspend Airport and Airway Trust Fund Trigger for one year [2]	907	242	2	2	2
Administration "loophole closers"	413	655	822	966	1,042
Corporate mergers and acquisitions	462	778	832	847	798
Tax on ozone-depleting chemicals	384	560	753	1,171	1,442
Repeal bank foreign tax credit special rule	168	229	150	81	22
Permit limited use of excess pension funds for current retiree health benefits	286	465	176	0	0
Repeal balance of completed contract method of accounting	171	390	262	116	28
Impose income tax withholding on wages of certain agricultural workers	270	68	21	22	23
Payroll tax speedup for large companies (effective 1994)	0	0	0	0	1,775
Other revenue proposals	532	440	314	250	207
Expiring provisions	−1,605	−2,757	−2,967	−3,201	−3,744
Repeal Section 89	−106	−78	−85	−93	−101
Corporate Alternative Minimum Tax	−422	−676	−698	−684	−729
Tax Penalty reform	0	−51	−82	−58	−25
Total	5,825	7,521	7,232	−625	1,896
Grand Total, deficit reduction	9,492	10,615	5,320	−2,067	−152

[1] Includes both the ad hoc Part B premium increases of $3.50 per month in calendar year 1990, $4.00 in 1991 and $4.10 in 1992 and 1993, and extension of the 25 percent rule through 1993.

[2] Also includes modification in collection period of airline ticket tax.

Notes.—Since for reconciliation scoring, only direct spending and revenue provisions count, authorizations are not shown. Deficit reduction is net revenues plus net outlay savings.

Minus indicates a decrease in revenues or an increase in outlays.

Source: Congressional Budget Office and the Joint Committee on Taxation.

TABLE 2.—TITLE X OUTLAY AND REVENUE ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE AND THE JOINT COMMITTEE ON TAXATION

[In millions of dollars]

	1990	1991	1992	1993	1994
Subcommittee on Social Security					
1. Independent agency (auth.)	(1)	−1	−1	−1	−1
2. Beneficiary services	−10	−7	−4	−5	−6
Authorization	−22	−34	−32	−32	−32
3. Representative payee (auth.)	−12	−3	−3	−3	−3
4, 7, and 10. Minor and technical	(1)	(1)	(1)	−1	−2
5. Adopted child benefits	−5	−12	−16	−21	−22
6. Religious exemptions (rev.)	−1	−1	−1	−1	−1
8. DI work incentives	(1)	−1	−1	−3	−4
9. DI benefits during appeal	−8	−36	−48	−55	−65
11. Preeffectuation review	4	6	8	9	11
Authorization	4	5	5	6	6
12. Recoup benefits through IRS offset	20	125	90	60	0
Authorization	−5	−10	−5	−5	0
13. SSN for legalized aliens	(1)	(1)	(1)	(1)	(1)
14. Increase in retirement test—age 65–69	−60	−120	−140	−150	−170
15. Increase in special minimum benefit	−100	−140	−145	−155	−160
16. Repeal of retroactive benefits	150	160	160	160	150
17. Railroad life insurance (rev.)	(1)	(1)	(1)	(1)	(1)
18. Railroad 401(k) (rev.)	2	2	2	2	2
19. Codification of Rowan (rev.)	0	0	0	0	0
20. Include Deferred Compensation in Calculation of Indexing FICA Base:					
Revenue	400	1,100	1,100	1,100	1,100
Outlay	—	−5	−13	−17	−31
Total direct spending	−9	−30	−109	−178	−299
Total authorizations	−35	−43	−36	−35	−30
Total revenues	401	1,101	1,101	1,101	1,101
Subcommittee on Human Resources					
Children's Initiative:					
A. Social Services Block Grant					
1. Title XX SSBG increase	0	−190	−390	−590	−600
B. Foster Care and child welfare amendments					
1. Increase child welfare authorization	−98	−132	−134	−134	−134
2. Extend ceilings & transfer authority	−5	−7	−7	−2	0
3. Prevention report	(1)	(1)	(1)	(1)	(1)
4. Foster parent training	−1	−1	−1	−1	−1
5. Health/Education case plans	−2	−2	−2	−2	−2
ESPDT services for foster care	−10	−10	−10	−15	−15
6. Adolescent's block grant	−75	−100	−100	−25	0
7. Improve data collection	0	−2	−1	−1	−1
8. Improve accountability	(1)	(1)	(1)	(1)	(1)
C. SSI disabled children amendments					
1. Individual assessment	−18	−50	−75	−105	−130
Authorization	−2	−2	−2	−2	−2
2. Presumptive eligibility	−4	−7	−7	−7	−7
3. Revise listings	(1)	−18	−23	−30	−35
4. Children's outreach	−3	−5	−7	−8	−10

TABLE 2.—TITLE X OUTLAY AND REVENUE ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE AND THE JOINT COMMITTEE ON TAXATION—Continued

[In millions of dollars]

	1990	1991	1992	1993	1994
Authorization	−1	(1)	(1)	(1)	(1)
5. Income averaging	−1	−1	−1	−1	−1
6. U.S. children abroad	−1	−2	−2	−2	−2
7. International demo project (auth.)	−1	−1	−2	−2	−2
Donnelly amendment	−2	−2	−2	−2	−2
D. Child Support Enforcement amendments					
1. Extend/modify IRS intercept	0	−2	−2	−2	−2
2. Make permanent and expand Medicaid transition in CSE cases	−10	−25	−25	−30	−30
Total children direct spending	−132	−424	−655	−823	−838
Initiative for the poor elderly:					
1. SSI benefit increase ($2/mo.)	−60	−90	−95	−145	−105
2. SSI Outreach	−70	−110	−110	−105	−105
Authorization	−20	−5	−5	−5	−5
3. Representative payee reform (auth.)	−5	−1	−1	−2	−2
4. Modify ⅓ reduction	−45	−60	−65	−70	−70
Authorization	−5	−3	−3	−3	−3
5. Transportation gifts	(1)	(1)	(1)	(1)	(1)
6. Separated couples	−2	−2	−2	−2	−2
7. Burial spaces	(1)	(1)	(1)	(1)	(1)
8. Work incentives for SSDI recipients	−2	−6	−9	−11	−14
Total elderly direct spending	−179	−268	−281	−333	−296
Miscellaneous amendments:					
A. Unemployment Compensation					
1. Option for school employees	−5	0	0	0	0
2. Collateral estoppel	0	0	0	0	0
B. Family Support Act	0	0	0	0	0
AFDC/Quality control amendments:					
1. Resolve backlog of disallowances	0	−314	−515	−167	−161
2. Permanently modify QC system	0	0	0	0	0
Total human resources direct spending	−316	−1,006	−1,451	−1,323	−1,295
Total human resources authorizations	−132	−144	−147	−148	−148
Subcommittee on Health					
Part A:					
1. Capital at −15 percent in 1990	675	100	0	0	0
2. Hospital payments					
a. Reduce payment by 1.35 percent / ProPAC differential	530	660	730	800	870
c. Increase update for rural	−140	−160	−180	−200	−220
d. Rural referral centers	−15	−25	−30	−15	0
e. Newly designated sole community hos.	−20	−40	−40	−45	−50
h. EACH demonstration projects	0	−10	−20	−30	−30
Transition grants (auth.)	−25	−40	−40	0	0
k. Increase disproportionate share	−230	−285	−315	−345	−375
3. Rebase long-term and cancer hospitals	−8	−12	−12	−12	−12

TABLE 2.—TITLE X OUTLAY AND REVENUE ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE AND THE JOINT COMMITTEE ON TAXATION—Continued

[In millions of dollars]

	1990	1991	1992	1993	1994
4. Hospice payments	−20	−25	−30	−35	−40
5. Miscellaneous Part A provisions					
g. Extend F.L.A.H.C.	0	(1)	1	1	1
Total part A direct spending	772	203	104	119	144
Part B:					
6. Reduce overpriced procedures					
a. Up to 15 percent using RB RVS eff. 4/1/90	210	285	325	370	415
b. By 8 percent for radiology services	110	140	160	180	200
c. Round anesthesiology to actual time	40	45	55	60	65
7. Reduce update for physician services	515	415	465	525	590
8. Three part physician payment package	0	0	130	145	165
9. Other physician provisions					
a. New physician customaries	25	150	0	0	0
b. Designated specialties	30	35	40	45	50
10. Hosp. out-patient capital at −15 percent in 90	25	20	0	0	0
11. Durable medical equipment—total	200	420	475	535	600
12. Clinical labs	90	145	180	205	240
13. Mental health services					
a. Pay psychologists	−15	−25	−30	−40	−40
b. Eliminate $1,100 limit	−20	−55	−75	−90	−115
14. Miscellaneous Part B					
a. Payments to Nurses	−71	−186	−206	−231	−256
b. Revise payments to comm. health ctrs	−13	−30	−35	−45	−50
c. Small blood labs	−14	−4	0	0	0
d. Diabetic shoe inserts	(1)	(1)	(1)	0	0
Total part B	1,112	1,355	1,484	1,659	1,864
Parts A and B:					
15. Delay payments 2 days	470	70	80	80	90
16. Secondary payer info from IRS	325	780	680	420	110
Authorization	−25	−30	−30	−20	−10
17. Cap ESRD method II payments	75	110	135	165	200
18. Medical effectiveness/outcomes research (auth.)	−72	−110	−170	−225	−270
19. Hospital patient protection amendments	0	0	0	0	0
20. HMO physician incentive plans	0	0	0	0	0
21. Physician ownership/referral	0	0	0	0	0
22. Miscellaneous Parts A and B					
a. Coverage for religious orders	−12	−15	−20	−20	−25
b. Long-term care study (auth.)	−5	−3	0	0	0
c. Medicare buy-in for SSDI benef	(1)	−3	−7	−12	−18
d. Hospital based nursing schools	−25	−45	−50	−55	−55
Authorization	(1)	−1	−1	−1	−1
e. GAO review of LTC insur. standards	0	0	0	0	0
f. Cancer Protocol Demo	−2	−2	−2	−2	−2
Total parts A and B direct spending	831	895	816	576	300

TABLE 2.—TITLE X OUTLAY AND REVENUE ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE AND THE JOINT COMMITTEE ON TAXATION—Continued

[In millions of dollars]

	1990	1991	1992	1993	1994
Beneficiaries:					
23. Extend 25 percent Part B premium rule for one year	325	455	485	515	545
Other:					
24. Extend COBRA coverage from 18 to 29 for SSI disabled	(1)	(1)	(1)	(1)	(1)
Total health direct spending	3,040	2,908	2,889	2,869	2,853
Amendments to Medicare Catastrophic Program					
1. Reduce supplemental premium	−2,475	−2,456	−2,375	−2,679	−3,029
2. Ad Hoc increase Part B premium	975	1,460	1,550	1,585	1,660
3. Extend Part B premium 25 percent rule	0	500	1,200	2,225	2,580
4. Increase drug deductible	0	340	950	610	0
5. Make Program voluntary	−90	−360	−160	−180	−180
6. Delay payments	2,000	700	−1,200	−940	−560
Total	410	184	−35	621	471
Subcommittee on Trade					
1. H.R. 2443 Trade Agency Authorizations	0	0	0	0	0
2. Customs user fees	−154	773	−8	−12	−4
3. Eliminate Superfund differential	0	0	0	0	0
4. Caribbean Basin Initiative (CBI)	−31	−35	−39	−12	−2
5. Miscellaneous Tariff Measures	−122	−151	−177	−58	−13
Total	−307	587	−224	−82	−19
Grand total deficit reduction	3,219	3,744	2,171	3,008	2,812

[1] Less than $500,000.

Note: Unless otherwise indicated, each provision represents a change in direct spending. For purposes of reconciliation scoring, authorizations do not count, because they require further action by the Appropriations Committee.

Minus indicates a decrease in revenues or an increase in outlays.

TABLE 3.—ESTIMATES OF REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—TITLE XI

[In Fiscal years and millions of dollars]

Item	1990	1991	1992	1993	1994	1990–94
I. Administration Proposals*						
A. Suspend Airport & Airway Trust Fund tax reduction trigger until expiration of present taxes (effective January 1, 1990) [1]	851	269	–	–	–	1,120
B. Loophole Closers:						
1. Characterize certain high-yield original issue discount (OID) obligations as preferred stock	25	51	94	131	160	461
2. Require consolidated computation of earnings and profits for corporations filing consolidated returns	27	69	123	170	224	613
3. Like-kind exchanges:						
a. Limit like-kind exchanges to similar use property	143	222	273	325	378	1,341
b. Restrict basis shifting techniques between related parties	100	120	130	140	151	641
c. Amend holding period requirements	(2)	(2)	(2)	(2)	(2)	(2)
4. Limit section 104 exclusion from income to amount received for personal injury	4	8	8	10	12	42
5. Tax pre-contribution gain on certain in-kind partnership distributions	9	20	26	31	36	122
6. Limit nonrecognition treatment when securities are received in certain section 351 transactions	105	165	168	159	81	678
Subtotal	1,264	924	822	966	1,042	5,018
II. Modified Administration Proposals*						
A. Impose Oil Spill Liability Trust Fund petroleum tax (effective October 1, 1989, through December 31, 1991) at $0.03 per barrel (cap at $300 million), without waiting for authorizing legislation	69	122	41	–	–	232
B. Telephone Excise Tax:						
1. Permanent extension	–	1,717	2,737	2,936	3,149	10,539
2. Modify collection period of tax (100% speedup, effective for taxes billed by service producers after June 30, 1990)	102	—102	–	–	–	–
Subtotal	171	1,737	2,778	2,936	3,149	10,771
III. Other Provisions*						
A. Employee Stock Ownership Plans (ESOPs):						
1. Repeal partial exclusion for interest paid on ESOP loans (section 133) (generally effective June 7, 1989)	1,008	1,258	1,663	2,036	2,369	8,334
2. Repeal the deduction for dividends paid on employer securities obtained by an ESOP (section 404(k))	307	404	536	657	765	2,669
3. Impose 3-year holding period on seller to be eligible for tax-free rollover (section 1042)	(2)	(2)	(2)	(2)	(2)	(2)

TABLE 3.—ESTIMATES OF REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—TITLE XI—Continued

[In Fiscal years and millions of dollars]

Item	1990	1991	1992	1993	1994	1990–94
4. Repeal sections 2057, 2210, 415(c)(6), and 382(1)(3)(C)	77	166	99	50	50	442
B. Repeal transition rule for certain high withholding tax interest (effective January 1, 1990)	168	229	150	81	22	650
C. Repeal remaining portion of completed contract method of accounting	171	390	262	116	28	967
D. Corporate mergers and acquisitions:						
1. Certain transactions involving foreign and other tax-exempt investors:						
a. Limit interest deductions for earnings-stripping payments to related parties	28	38	44	47	49	206
b. Tax stock gains of certain foreign investors	2	5	6	35	50	98
2. Clarify Treasury regulation authority relating to bifurcation of an instrument into debt and equity portions (section 385)	(2)	(2)	(2)	(2)	(2)	(2)
3. Require reporting to IRS of acquisitions and recapitalizations (effective on date of enactment)	(2)	(2)	(2)	(2)	(2)	(2)
4. Require Treasury study of "debt versus equity" and integration issues	–	–	–	–	–	–
E. Permit limited use of excess pension funds to pay current retiree health benefits (effective January 1, 1990)	286	465	176	(3)	(3)	927
F. Impose gasoline excise tax when gasoline is received at terminal (effective October 1, 1989)	117	60	60	60	60	357
G. Require corporate estimated tax payments on tax liability for certain Subchapter S income (effective January 1, 1990)	25	(2)	(2)	(2)	(2)	25
H. Impose income tax withholding on the wages of certain agricultural workers (effective January 1, 1990)	270	68	21	22	23	404
I. Require regulated investment companies (mutual funds) to distribute 98% of ordinary income to their shareholders (effective for taxable years ending after July 10, 1989)	50	5	5	5	5	70
J. Adjust basis for mutual fund load charge only if shareholder holds shares for 30 days	14	28	13	5	3	63
K. Reduce built-in gain or loss threshold of sections 382 and 384 to lesser of 15% or $10 million	25	42	44	46	49	206
L. Increase enforceability of section 482 with respect to U.S. subsidiaries and branches of foreign corporations through improved reporting	60	80	85	90	95	410
M. Modify excess loss account recapture rules to prevent shifting of basis to debt	54	69	61	52	42	278
N. Require basis reduction for nontaxed portion of dividends on self-liquidating ("wasting") stock	6	10	11	12	13	52
O. Modify treatment of costs of acquiring franchises, trademarks, and trade names	75	135	173	203	225	811
P. Conform tax years of controlled foreign corporations and foreign personal holding companies to the tax years of their U.S. shareholders	48	71	71	71	36	297
Q. Change the sourcing of foreign income of certain commonly-controlled nonconsolidated corporations	20	37	41	45	49	192
R. Limit nonrecognition treatment when securities are received by corporate transferors in certain section 351 transactions (effective July 11, 1989)	52	83	84	80	40	339

S. Deny expensing for certain R&D not performed in the United States (effective for taxable years beginning after December 31, 1989)			43	81	68	57	47	296
T. Include dividends in income of RICs (regulated investment companies) on ex-dividend date (effective for ex-dividend dates after date of enactment)			110	20	20	20	20	190
U. Deny retroactive certification of WIN credit			38	28	12	–	–	78
V. Deny amortization of life estate in related-party joint purchases			–	7	7	8	8	30
W. Treat cellular telephones and other similar telecommunications equipment as "listed property"			2	10	14	18	24	68
X. Require reporting of mortgage points by lender			2	5	5	5	5	22
Subtotal			3,058	3,794	3,731	3,821	4,077	18,481
IV. Child Care Provisions								
A. Expanded Earned Income Tax Credit (effective January 1, 1991):								
1. Adjustments for family size ([3] [4]): phasein 17%, 25%; phaseout 12%, 15%, 18%			–	−296	−2,878	−3,092	−3,315	−9,581
2. Supplemental for children under 6 years old: phasein 6%; phaseout 4.25%			–	−119	−1,194	−1,274	−1,358	−3,945
B. Expansion of Title XX Block Grant for Child Care Services ([4])			−120	−266	−362	−394	−400	−1,542
Subtotal			−120	−681	−4,434	−4,760	−5,073	−15,068
V. Expiring Provisions	Code section	Current-law expiration						
A. Temporary Extensions (through December 31, 1991):								
1. Employer-provided education assistance	Sec. 127	12/31/88	−439	−316	−96	–	–	−851
2. Targeted jobs tax credit	Sec. 51	12/31/89	−47	−134	−144	−80	−37	−442
3. Mortgage revenue bonds	Sec. 143	12/31/89	−11	−55	−117	−145	−143	−471
4. Small-issue manufacturing bonds	Sec. 144	12/31/89	−7	−39	−80	−78	−76	−280
5. Business energy credits for geothermal property	Sec. 46	12/31/89	−44	−60	−18	4	3	−115
6. Health insurance for self-employed	Sec. 162(1)	12/31/89	−244	−411	−151	–	–	−806
B. Permanent Extensions:								
1. Low-income housing credit (with modifications)	Sec. 42	12/31/89	−80	−335	−685	−1,067	−1,460	−3,627
2. Research and experimentation credit (with modifications)	Sec. 41	12/31/89	−398	−782	−968	−1,063	−1,194	−4,406
3. Research and experimentation cost allocation rules (64% allocation: effective for taxable years beginning after August 1, 1989).	Sec. 864(f)	(*)	−335	−625	−708	−772	−837	−3,277
Subtotal			−1,605	−2,757	−2,967	−3,201	−3,744	−14,275

TABLE 3.—ESTIMATES OF REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—TITLE XI—Continued

[In Fiscal years and millions of dollars]

Item	1990	1991	1992	1993	1994	1990–94
VI. Subcommittee—Related Items						
A. Penalty Reform	–	−51	−82	−58	−25	−216
B. Permit Use of Tax Return Information by Department of Veterans Affairs	–	–	–	–	–	–
C. Corporate Alternate Minimum Tax:						
1. Eliminate book backstop	−388	−590	−575	−538	−560	−2,650
2. Adjust regular and alternative minimum tax treatment of installment sales of timeshares and residential lots by C corporations	−9	−12	−8	−4	−4	−37
3. Allow exclusion preferences as credits	–	−24	−61	−92	−119	−296
4. Allow DRD from ACE for 80% or more stock ownership	−5	−7	−6	−5	−5	−28
5. Other changes	(5)	(5)	(5)	(5)	(5)	(5)
6. Allow DRD from ACE for 20%–80% stock ownership	−15	−24	−20	−17	−14	−90
7. Elminate individual R&E preference for all non-corporate entities if material participation by owner/partner (effective January 1, 1991)	–	−4	−14	−14	−14	−46
8. Allow residential construction firms to use CCM for AMT	–	−5	−5	−5	−5	−20
9. Permit certain corporations with 100% foreign income to use 100% of foreign tax credits for AMT purposes (income earned after March 31, 1990)	−2	−5	−5	−5	−5	−22
10. Exclude certain cooperatives FSCs from AMT (effective for taxable years beginning after December 31, 1989)	−2	−3	−3	−3	−3	−14
11. Allow carryover of orphan drug credit for minimum tax purposes	−1	−2	−1	−1	–	−5
D. Rehabilitation Tax Credit:						
1. Provide exception from income phaseout of passive loss rule $25,000 exemption	−8	−21	−29	−39	−48	−145
2. Treat relocated buildings as qualifying property	−2	–	–	–	–	−2
Subtotals	−432	−748	−809	−781	−802	−3,571
VII. Revenue-Raising Items Approved September 14, 1989						
A. Impose tax on ozone-depleting chemicals (effective January 1, 1990) [6]	384	560	753	1,171	1,442	4,310
B. Modify collection period of airline ticket tax (effective for tax billed after June 30, 1990)	56	−27	2	2	2	35
C. Payroll tax speedup for large companies ($1 million threshold; effective after December 31, 1993)	–	–	–	–	1,775	1,775

D. Limit corporate net operating loss carrybacks in certain circumstances	226	406	420	384	343	1,779
E. Allow issueres of certain qualified mortgage bonds additional time to elect to rebate arbitrage	2	2	1	(3)	(3)	5
F. Close loophole for investment-oriented life insurance contracts	(3)	(3)	1	1	1	3
G. Treat foreign dividends and subpart F inclusions as unrelated business taxable income	(2)	(2)	(2)	(2)	(2)	(2)
H. Impose restrictions on hedge bonds	3	8	14	23	29	77
Subtotals	671	949	1,191	1,581	3,592	7,984
VIII. Capital Gains						
A. 30% capital gains exclusion for dispositions from September 14, 1989 through December 31, 1991	2,871	3,813	2,733	−5,506	−4,788	−877
B. Indexation of the cost basis of certain capital assets acquired after December 31, 1991 [7]	(3)	(3)	(3)	−96	−212	−308
C. Provide for a maximum tax rate on long-term capital gains of 28% beginning on January 1, 1992 [8]	–	–	−36	−121	−177	−334
Subtotal	2,871	3,813	2,697	−5,723	−5,177	−1,519
IX. Miscellaneous Items						
A. Repeal section 89 and impose certain nondiscrimination restrictions on executive-only plans and professional service organizations [9]	−106	−78	−85	−93	−101	−483
B. Modify treatment of certain timber activities of individuals under the passive loss rules (effective January 1, 1990)	−11	−38	−40	−42	−44	−175
C. Modify treatment of safe-harbor leases entered into by rural electric cooperatives	−12	−7	−7	−7	−6	−39
D. Require exercise of Treasury regulatory authority with respect to full-funding limitation on a revenue-neutral basis	–	–	–	–	–	–
E. Allow use of multifamily residential rental bonds for transitional housing	–	–	−1	−2	−2	−5
F. Modify interest allocation rules for foreign tax credit limitation purposes for certain financial services companies	−8	−12	−15	−15	−15	−65
G. Modify placed-in-service date for certain tax-exempt bond-financed property	(3)	(3)	(3)	(3)	(3)	(3)
H. Provide for nonrecognition of capital gains on divestments of property pursuant to Federal ethics requirements	(3)	(3)	(3)	(3)	(3)	(3)
I. Exempt from corporate-level tax certain distributions made by cooperative housing corporations (effective September 14, 1989)	−26	−33	−36	−39	−43	−177
J. Eliminate the excise tax imposed on the Inactive Polio Vaccine, conditioned upon the action of the Energy and National Resources Committee	–	–	–	–	–	–
K. Modify rules affecting lump-sum distributions by certain pension plans	(3)	(3)	(3)	(3)	(3)	(5)
L. Provide a 2-½ month rule for distributions by foreign personal holding companies	(3)	(3)	(3)	(3)	(3)	(3)
M. Expand 6-month exception to tax-exempt bond arbitrage rebate rules	−5	−11	−16	−19	−23	−74

TABLE 3.—ESTIMATES OF REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—TITLE XI—Continued

[In Fiscal years and millions of dollars]

Item	1990	1991	1992	1993	1994	1990–94
N. Increase Joint Committee on Taxation refund review threshold to $1 million (effective on date of enactment)	–	–	–	–	–	–
O. Require Treasury study of IRS private letter ruling process	–	–	–	–	–	–
Subtotal	−168	−179	−200	−217	−234	−1,018
X. Technical Corrections	−5	−12	−11	−7	−7	−42
Grand total	5,705	6,840	2,798	−5,385	−3,177	6,761

*Effective for transactions after July 10, 1989, unless otherwise noted.
+Rules expire 4 months after start of a firm's first tax year beginning after August 1, 1987.
[1] Estimate assumes suspension of trigger with no impact beyond scheduled expiration date of taxes of December 31, 1990.
[2] Gain of less than $5 million.
[3] Negligible.
[4] Outlay estimates were provided by the Congressional Budget Office.
[5] Loss of less than $5 million.
[6] Estimate covers only Montreal Protocol chemicals.
[7] Estimate assumes enactment of item VIII.A.
[8] Estimate assumes enactment of items VIII.A. and VIII.B.
[9] Estimate total includes a loss of $20 million in FY 1989.

Note.—The order of the revenue table provisions does not correspond to the order of the Committee Report explanations.

Source: Joint Committee on Taxation.